



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

पृष्ठ : 43

शिमला, शनिवार, 14 अक्टूबर, 1995/22 अगस्त, 1917

संख्या : 41

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अनुपूरक

14 अक्टूबर, 1995/22 अगस्त, 1917 की गणना होने वाले वर्षाव में निम्नलिखित विभागों 'प्रसाधन राज्य, हिमाचल प्रदेश' में प्रकाशित हुई :-

प्रकाश की संख्या	विभाग का नाम	विषय
No. Ahy. B (15)-3/89, dated the 23rd August, 1995.	Animal Husbandry Department	Accorded permission to the Vety. Pharmacists of the said department under the Indian Veterinary Act (Central Act No. 52 of 1984) for giving treatment to animals/birds in the respect of different ailments.
संख्या जी०ए०बी०-1ए (1)-2/85, दिनांक 20 सितम्बर, 1995.	नामान्य प्रशासन विभाग	तहसिल कांगड़ा, नूरपुर, धर्मशाला और उप-तहसील हारविकी से विभिन्न पट्टार हल्कों को अन्वेषित करके शाहपुर के नाम से मात्र एक नई तहसिल के सृजन बारे अधिसूचना इसके अंग्रेजी रूपान्तरण सहित।
No. 9-4/73-SI (Rules)-IV, dated the 28th August, 1995.	Industries Department	Amendment in the Rules regarding grant of incentives to Industrial Units in Himachal Pradesh, 1991.
दिनांक 16, शिमला, 16-9-1995	नगर एवं ग्राम योजना विभाग	शिमला योजना क्षेत्र के जाखू सेक्टर की प्रारम्भ विकास योजना के प्रारम्भ की सूचना।
-do-	-do-	Notice of publication of draft Sectoral Plan for Central Zone of Shimla Planning Area.

भाग-1---वैधानिक नियमों को लागू कर हिमाचल प्रदेश न गण्यमान और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

हिमाचल प्रदेश हाई कोर्ट

NOTIFICATIONS

Shimla-1, the 26th July, 1995

No. HHC/GAZ/14-156/83-12653. Hon'ble the Chief Justice has been pleased to grant *ex-post facto* sanction of 5 days commuted leave with effect from 19.6.1995 to 23.6.1995 in favour of Shri D. S. Khenal, Sub-Judge-cum-SDJM (I), Paonta Sahib.

Certified that Shri D. S. Khenal has joined the same post and at the same station from where he proceeded on leave, after expiry of the above period of leave.

Also certified that Shri Khenal would have continued to hold the post of Sub-Judge-cum-SDJM (I), Paonta Sahib, but for his proceeding on leave for the above period.

Shimla-1, the 27/29th July, 1995

No. HHC/Admn.16(13)74-IV-12662. Hon'ble the Chief Justice and Judges in exercise of the powers vested in them under Section 139 (a) of the Code of Civil Procedure and under Section 297 (b) of the Code of Criminal Procedure, are pleased to appoint Shri Vidya Sagar, Advocate, Rohru, District Shimla, Himachal Pradesh as Oath Commissioner, Rohru, for a period of 2 years with immediate effect for administering oaths and affirmations on affidavits to the deponents, under aforesaid Codes in accordance with the terms specified in para-5, Chapter 12-B of Volume-IV of the Punjab High Court Rules and Order, as applicable to the State of Himachal Pradesh.

B: order,

Sd/-
Additional Registrar (Admn.).

Shimla-1, the 28th July, 1995

No. HHC/GAZ/14-53/74-III-12606. —Consequent upon the appointment of Shri Dharam Chand, Advocate to the Himachal Pradesh Higher Judicial Service as a direct recruit, vide notification No. HHC-e-B(G)6/95, dated 16.7.1995 of the Home Department of Himachal Pradesh Government, Hon'ble the Chief Justice and Judges are pleased to post him as Additional District and Sessions Judge (II), Kangra at Dharamshala vice Shri J. N. Barwalia, Additional District and Sessions Judge (II), Kangra at Dharamshala, who is under transfer to Mandi.

Hon'ble the Chief Justice and Judges are further pleased to direct that Shri Dharam Chand, Additional District and Sessions Judge, is posted as Officer on special duty in the High Court till Shri J. N. Barwalia relinquishes his charge at Dharamshala.

Shimla-1, the 28th July, 1995

No. HHC/GAZ/14-53/74-III-12627. —Consequent upon the appointment on promotion of Shri L. L. Gupta, Senior Sub-Judge-cum-Chief Judicial Magistrate, Hamirpur to the Himachal Pradesh Higher Judicial Service, vide Notification No. Home-B(G)6/95 dated 22.7.1995 of the Home Department of Himachal Pradesh Government, Hon'ble the Chief Justice and Judges are pleased to post him as Additional District and Sessions Judge, Sirmour at Nahau against the vacant post.

Shimla-1, the 28th July, 1995

No. HHC/GAZ/14-53/74-III-12646. —Consequent upon the appointment on promotion of the Government of Himachal

Pradesh vide Notification No. Home-B(G)14/95, dated July 26, 1995, the Hon'ble the Chief Justice and Judges are pleased to order the following postings and transfers, in the public interest, with immediate effect:

1. Shri D. K. Sharma, Sub-Judge-cum-Additional Chief Judicial Magistrate, Shimla is transferred and posted as Senior Sub-Judge-cum-Chief Judicial Magistrate, Mandi.
2. Shri A. C. Thilwal, Senior Sub-Judge-cum-Chief Judicial Magistrate, Mandi, is transferred and posted in the same capacity at Hamirpur, against the vacant post.
3. Shri V. K. Gupta, Senior Sub-Judge-cum-Chief Judicial Magistrate, Nahau is transferred and posted as Senior Sub-Judge-cum-Chief Judicial Magistrate, Una.
4. Shri Sher Singh Soni, Senior Sub-Judge-cum-Chief Judicial Magistrate, Una is transferred and posted as such at Nahau.
5. Shri S. C. Kainthla, Sub-Judge-cum-Sub-Divisional Judicial Magistrate, Amb (I) is transferred and posted as Sub-Judge-cum-Additional Chief Judicial Magistrate, Chhumarwin.
6. Shri Bhim Chand, Sub-Judge-cum-Judicial Magistrate, Shimla (2), transferred and posted as Sub-Judge-cum-Additional Chief Judicial Magistrate, Rampur Bushahr.
7. Shri Rajesh Kumar Verma, Sub-Judge-cum-Sub-Divisional Judicial Magistrate, Rampur Bushahr is transferred and posted as Sub-Judge-cum-Sub-Divisional Judicial Magistrate, Anni against the newly created court.
8. Shri L. R. Sharma, Sub-Judge-cum-Judicial Magistrate, Mandi is transferred and posted as Sub-Judge-cum-Additional Chief Judicial Magistrate, Amb.
9. Shri B. L. Soni, Sub-Judge-cum-Sub-Divisional Judicial Magistrate, Theog is posted at the same place as Sub-Judge-cum-Additional Chief Judicial Magistrate.
10. Shri D. S. Khenal, Sub-Judge-cum-Sub-Divisional Judicial Magistrate (I), Paonta Sahib is posted at the same place as Sub-Judge-cum-Additional Chief Judicial Magistrate.
11. Shri J. C. Sood, Sub-Judge-cum-Additional Chief Judicial Magistrate, Dharamshala, is transferred and posted as Sub-Judge-cum-Additional Chief Judicial Magistrate (I), Nurpur.
12. Shri A. K. Sharma, Sub-Judge-cum-Sub-Divisional Judicial Magistrate (I), Nurpur is transferred and posted as Sub-Judge-cum-Judicial Magistrate (II), Palampur.
13. Shri Virender Sharma, Sub-Judge-cum-Judicial Magistrate (II), Palampur is transferred and posted as Sub-Judge-cum-Judicial Magistrate (II), Dharamshala.
14. Shri K. K. Sharma, Sub-Judge-cum-Judicial Magistrate (II), Nurpur is transferred and posted as Sub-Judge-cum-Sub-Divisional Judicial Magistrate, Jawali, against the newly created court.
15. Shri J. K. Sharma, Sub-Judge-cum-Sub-Divisional Judicial Magistrate, Logandernagar, is transferred and posted as Sub-Judge-cum-Sub-Divisional Judicial Magistrate, Sundernagar.

16. Shri Rattan Singh, Sub-Judge-cum-Sub-Divisional Judicial Magistrate, Jogiindernagar, is transferred and posted as Sub-Judge-cum-Sub-Divisional Judicial Magistrate, Jogiindernagar.
17. Shri Jai Narayan, Sub-Judge-cum-Judicial Magistrate (II), Una is transferred and posted as Sub-Judge-cum-Judicial Magistrate (II), Nurpur.
18. Dr. Baldev Singh, a new candidate is posted as a Sub-Judge-cum-Judicial Magistrate (II), Una.
19. Ms. Veerta Verma, a new candidate, is posted as Sub-Judge-cum-Judicial Magistrate (I), Mandi.
20. Shri Rakesh Kainthla a new candidate is posted as Sub-Judge-cum-Judicial Magistrate (II), Rohru.
21. Shri Rakesh Kumar Chaudhary, a new candidate is posted as Sub-Judge-cum-Judicial Magistrate, Solan, against the newly created court.
22. Shri Yashwant Singh, a new candidate is posted as Sub-Judge-cum-Judicial Magistrate (II) Shimla.

It has further been ordered that after the assumption of the charge, the officers mentioned at Serial Numbers 18 to 22 above, will undergo practical training for fifteen days with the Senior Sub-Judge-cum-Chief Judicial Magistrate of their respective Districts.

The officers mentioned at Serial Numbers 1 to 17 above, are directed to relinquish the charge of their respective offices immediately and join at their new place(s) of postings after availing of the usual joining time, if so desired.

No T. A. and D. A. will be admissible to the officers mentioned at Serial Numbers 18 to 22 above.

By order,

Sd/-
Registrar (Vigilance).

Shimla-1, the 1st August, 1995

No. HHC/Admn.6(23)/74-IX-12865. Hon'ble the Chief Justice in exercise of the powers vested in him under rule 1.26 of Himachal Pradesh Financial Rules, 1971, Volume I is pleased to declare the Senior Sub-Judge-cum-Chief Judicial Magistrate, Bilaspur as Drawing and Disbursing Officer in respect of the Court of Sub-Judge-cum-Sub-Divisional Judicial Magistrate, Ghumarwin and also the Controlling Officer for the purpose of T. A. etc. in respect of Class III and IV establishment attached to the aforesaid Court under head "2014—Administration of Justice" with immediate effect till Shri S. C. Kainthla joins at Ghumarwin.

Shimla-1, the 1st August, 1995

No. HHC Admn.6(23)/74-IX-12843. With reference to rules 1.25 and 1.17 of the Himachal Pradesh Financial Rules, 1971, the Hon'ble the Chief Justice is pleased to declare the District and Sessions Judge, Civil and Sessions Division Kinnair with Headquarter at Rampur Bushahr, Himachal Pradesh as the Drawing and Disbursing Officer of his Court and also as the Controlling Officer for the T. A. etc. in respect of Class III and IV establishment of his Court, under major head "2014—Administration of Justice" with effect from 28th July, 1995.

Shimla-1, the 3rd August, 1995

No. HHC/Admn 6(23)/74-IX/12927. Hon'ble the Chief Justice in exercise of the powers vested in him under

rule 1.26 of Himachal Pradesh Financial Rules, 1971, Volume I is pleased to declare the Additional Chief Judicial Magistrate-cum-Sub-Judge 1st Class, Court No. (I), Rohru as Drawing and Disbursing Officer in respect of the Court of Sub-Judge-cum-IMIC (II), Rohru and also the Controlling Officer for the purpose of T. A. etc. in respect of Class III and IV establishment attached to the aforesaid Court under head "2014—Administration of Justice" with immediate effect till Shri Rakesh Kainthla takes over charge as Sub-Judge-cum-IMIC (II), Rohru.

By order,

Sd/-
Additional Registrar (Admn.).

Shimla-1, the 3rd August, 1995

No. HHC/Admn 28(42)94-13063. In partial modification of this Registry notification No. HHC/Admn.28 (42)94-6432-44, dated 26-4-1995, the Hon'ble the Chief Justice and Judges are pleased to order with immediate effect as follows:

1. The District and Sessions Judge and the Additional District and Sessions Judge, Sirmour at Nahar shall cease to hold Circuit Courts at Nalagarh and Solan, respectively. The powers conferred upon the above two officers as Additional District and Sessions Judges, Solan vide this Registry notification No. 6(22)-74-6445-63, dated 26-4-1995, shall stand withdrawn.
2. The District and Sessions Judge, Solan, shall hold Circuit Court at Nalagarh for 10 days in a month.

By order,

GOVIND SHARMA,
Registrar (Vigilance).

Shimla-1, the 4th August, 1995

No. HHC/Admn 16(15)74-II-13073. Hon'ble the Chief Justice and Judges in exercise of the powers vested in them under Section 139(b) of the Code of Civil Procedure and under section 297 (b) of the Code of Criminal Procedure, are pleased to appoint Shri Rajeev Sharma, Advocate, Kandaghat, District Solan, Himachal Pradesh as Oath Commissioner, Kandaghat for a period of two years with immediate effect for administering oaths and affirmations on affidavits to the deponents, under the aforesaid Codes in accordance with the terms specified in Para 5 Chapter 12-B of Volume IV of the Punjab High Court Rules and Orders, as applicable to the State of Himachal Pradesh.

By order,

Sd/
Registrar (Vigilance).

Shimla-1, the 8th August, 1995

No. HHC/Admn.6(23)/74-IX-13133. Hon'ble the Chief Justice in exercise of the powers vested in him under rule 1.26 of Himachal Pradesh Financial Rules, 1971, Volume I, is pleased to declare the Sub-Judge-cum-Judicial Magistrate 1st Class (Court No. IV), Shimla as Drawing and Disbursing Officer in respect of the Court of Sub-Judge-cum-Judicial Magistrate 1st Class (Court No. 3), Shimla and also the Controlling Officer for the purpose of T. A. etc. in respect of Class III and IV establishment attached to the aforesaid Court under head "2014—Administration of Justice" with immediate effect until new incumbent is posted there.

By order,

Sd/-
Additional Registrar(S).

Shimla-1, the 4/11th August, 1995

CORRIGENDUM

No. HHC/Admn.22(13)78-13482.—In the notification No. HHC/Admn.22(13)78, dated 20th July, 1995 regarding amendment *add after the words* "accompanied with" and *before the words* "made by" the words "the reference" in the proviso to Rule 4 of "The Special Judicial Magistrate qualifications (Himachal Pradesh) Rules, 1981.

By order,

R. K. MAHAJAN,
Registrar.

Shimla-1, the 16th August, 1995

NOTIFICATIONS

No. HHC/GAZ/14-19/75-IV-13445.—Hon'ble the Chief Justice and Judges are pleased to order the cancellation of 4 days un-availed earned leave with effect from 5-6-1995 to 8-6-1995, sanctioned *vide* this Registry notification No. HHC/GAZ/14-19/75-IV-9639-46, dated 8-6-1995 in favour of Shri M. R. Verma, District and Sessions Judge, Mandi.

Shimla-1, the 16th August, 1995

No. HHC/Admn.3(11)/72-13413.—The Hon'ble Chief Justice is pleased to sanction 11 days earned leave *w. e. f.* 16-8-1995 to 26-8-1995 with permission to prefix Second Saturday/Sunday/holidays falling on 15-8-1995 and to suffix Second Saturday/Sunday/Holidays falling on 27-8-1995 in favour of Shri Manish Kumar, Assistant Registrar of this Registry.

Certified that Shri Manish Kumar is likely to join the same post and at the same station from where he proceeds on leave after the expiry of the above leave period.

Certified that Shri Manish Kumar would have to officiate the same post of Assistant Registrar but for his proceeding on leave.

By order,

Sd/-
Registrar.

Shimla-1, the 16th August, 1995

No. HHC/Admn.6(23)/74-IX-13469.—Hon'ble the Chief Justice in exercise of the powers vested in him under rule 1.26 of Himachal Pradesh Financial Rules, 1971, Volume-I, is pleased to declare the Sub-Judge-cum-Sub-Divisional Judicial Magistrate (I), Kangra as Drawing and Disbursing Officer in respect of the Court of Sub Judge-cum-JMIC (II), Kangra (newly created) and also the Controlling Officer for the purpose of T. A. etc. in respect of Class III and IV establishments attached to the aforesaid Court under head "2014—Administration of Justice" with immediate effect till the new incumbent is transferred and posted there.

Shimla-1, the 16th August, 1995

No. HHC/Admn.6(23)/74-IX-13498.—Hon'ble the Chief Justice in exercise of the powers vested in him under rule 1.26 of the Himachal Pradesh Financial Rules, 1971, Volume-I, is pleased to declare the following Sub-Judges-cum-Judicial Magistrates as Head of Offices and Drawing and Disbursing Officers, as also

the Controlling Officer for the purpose of T. A. etc in respect of Class-III and IV establishment of their respective Courts under Head "2014—Administration of Justice" with effect from they assume charge.

Sl. No.	Designation	Headquarter
1.	Sub-Judge-cum-Sub-Divisional Judicial Magistrate, Jawali.	Jawali
2.	Sub Judge-cum-Sub-Divisional Judicial Magistrate, Ani.	Ani
3.	Sub-Judge-cum-Judicial Magistrate, Solan.	Solan

Shimla-1, the 16th August, 1995

No. HHC/Admn.6(23)/74-IX-13509.—Hon'ble the Chief Justice in exercise of the powers vested in him under rule 1.26 of Himachal Pradesh Financial Rules, 1971, Volume-I, is pleased to declare the Additional District and Sessions Judge, Solan as Head of Office and Drawing and Disbursing Officer as also the Controlling Officer for the purpose of T. A. etc, in respect of Class III and IV establishment of his Court under head "2014—Administration of Justice" with immediate effect.

By order,

Sd/-
Additional Registrar(S).

Shimla-1, the 17th August, 1995

No. HHC/Admn.6(18)77-IV-13546-57.—Hon'ble the Chief Justice and Judges in exercise of the powers vested in them under Section 13 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974) are pleased to confer the powers of Special Judicial Magistrate, IInd Class upon the following I.A.S. Probationers to be exercised by them within the District shown against their names, for a period of one year from the date of their joining in the District of their training:—

Sl. No.	Name and Designation of the Officer	Area of Local Limits
1.	Ms. Anuradha Thakur	Mandi district
2.	Shri Onkar Chand Sharma	Kangra district

By order,

Sd/-
Registrar.

Shimla-1, the 2nd September, 1995

No. HHC/GAZ/14-152/83-14548.—Hon'ble the Chief Justice and Judges are pleased to grant 5 days earned leave with effect from 4-9-1995 to 8-9-1995 with permission to prefix Sunday falling on 3-9-1995 and suffix Second Saturday and Sunday falling on September 9 and 10, 1995 in favour of Shri S.C. Kainthla, Sub-Judge-cum-Additional Chief Judicial Magistrate, Ghumarwin.

Certified that Shri Kainthla is likely to join the same post and at the same station from where he proceeds on leave, after expiry of the above period of leave.

Also certified that Shri Kainthla would have continued to hold the post of Sub Judge-cum-Additional Chief Judicial Magistrate, Ghumarwin, but for his proceeding on leave, for the above period.

By order,

Sd/-
Additional Registrar (Admn.)

हिमाचल प्रदेश सरकार
LABOUR AND EMPLOYMENT DEPARTMENT
NOTIFICATION

Shimla-171002, the 2nd June, 1995

No. 19-8-Shram-IV.—In exercise of the powers vested in him under Sect on 17 (1) of the Industrial Disputes Act, 1947 the Governor, Himachal Pradesh is pleased to order the publication of the awards in the Rajpatra, announced by the Presiding Officer, Labour Court in respect of the following cases :—

Sl. No. 1	Case No. 2	Parties 3	Section 4	Remarks 5
1.	Ref-103/92.	Raj Kumar vs Xen, HPPWD (B&R) Nahan	10	For publication.
2.	Ref-119/92	Dalel Singh vs D.M. Forest Working	10	-do-
3.	Ref-7/93.	Balbir Singh vs Xen. HPPWD (B&R) Nahan	10	-do-
4.	Ref-15/93	Chiranjil Lal vs -do-	10	-do-
5.	Ref-8/93	Ramesh Kumar vs -do-	10	-do-
6.	Ref-114/92	Krishan Dutt vs Branch Manager, H.P. Financial Corporation, Nahan	10	-do-
7.	Ref-14/90	HRTC B-Grade Clerks Union v/s M.D. HRTC Shimla	10	-do-
8.	Ref-57/92	Om Prakesh vs Xen, IPH Div. Majra	10	-do-
9.	Ref-66/92	Sohan Lal vs Xen, HPSEB Nahan	10	-do-
10.	Ref-41/89	Baldev Singh vs M/s Himachal Fibers Barotiwala	10	-do-
11.	Ref-75/89	Sunil Kumar vs M/s Jai Mata Rolled Glass, Tipravalu.	10	-do-
12.	Ref-84/92	Mohan Lal Sharma vs Executive Director Western Electronics Ltd. New Delhi.	10	-do-
13.	Ref-60/93	Bhola Ran vs Xen, IPH Poanta-Sahib.	10	-do-
14.	Ref-50/93	Dhanbir Singh vs Conservator, Nahan	10	-do-
15.	Ref-52/93	Surjan Singh vs -do-	10	-do-
16.	Ref-112/92	Prem Singh vs D.M. Him Kasht Sales Division Depot, Mantruwala	10	-do-
17.	Ref-28/94	Ram Pal vs M/s BCC Puda India, Nalagarh	10	-do-
18.	Ref-63/92	Pritam Singh vs Xen, HPPWD (B&R) Poanta-Sahib	10	-do-
19.	Ref-10/94	Bakshi Ram vs Xen HPPWD Ghumarwin	10	-do-
20.	Ref-86/92	Nura vs G.M. Biroja & Tarpin Fac. Bilaspur	10	-do-
21.	Ref-12/93	Workers Union vs M/s S.R. Forging Ltd. Jharmajari	10	-do-
22.	Ref-29/91	Bhagi Ram vs M/S Him Tubes Baddi	10	-do-
23.	Ref-125/93	Jai Murti Minerals & Chemicals Workers Union vs Jai Murti Minerals & Chemicals (P) Ltd., Poanta.	10	-do-
24.	Ref-94/92	Gagan Singh vs Xen HPPWD Div. Dalhousie	10	-do-
25.	Ref-57/93	Jarn Singh vs Asstt. Engineer IPH Sub-Div. Sihunta, Distt. Chamba	10	-do-
26.	Ref-128/93	Surinder Kumar vs M/S KB Carbon Ribton (P) Ltd. Raja-ka-Bagh Nurpur	10	-do-
27.	Ref-59/90	Nirmal Singh vs M/s Jai Mata Rolled Glass Ltd. Barotiwala	10	-do-
28.	Ref-49/90	Surinder Singh vs -do-	10	-do-
29.	Ref-37/90	Gurbax Singh vs -do-	10	-do-
30.	Ref-46/90	Avtar Singh vs -do-	10	-do-
31.	Ref-50/90	Prem Singh vs -do-	10	-do-
32.	Ref-57/90	Darshan Singh vs -do-	10	-do-
33.	Ref-53/92	Staff Association vs Chamera Jal Vidyut Pariyojana, Dalhousie.	10	-do-
34.	Ref-80/93	Gen. Sec. Gabriel Employees Union v/s M/S Gabriel India Ltd. Parwanoo & Others	10	-do-
35.	Ref-36/90	Avtar Singh vs M/s Jai Mata Rolled Glass Ltd. Tipra Barotiwala	10	-do-
36.	Ref-52/90	Hardev Singh vs -do-	10	-do-
37.	Ref-21/93	President, J.K. Latherits Mazdoor Singh M/s J.K. Latherits (P) Ltd. Mehatpur	10	-do-
38.	Ref-120/92	Chiranjil Lal vs Xen. HPPWD (B&R) Nahan	10	-do-
39.	Ref-77/92	Ram Syrup & Phoolwanti vs Principal Himalayan International School, Chharabra. District Shimla	10	-do-
40.	Ref-19/92	Municipal Karamchhari Union vs Administrator, Municipal Committee, Nahan	10	-do-
41.	Ref-30/91	Roop Singh vs Pruewal & Associates Ltd., Jubbar District Solan	10	-do-
42.	Ref-31/91	Moti Ram vs Purewal & Associates Ltd., Jubbar, District Solan	10	-do-
43.	Ref-63/93	Shyam Lal vs M/s Hitkari Potteries (P) Ltdk. Parwanoo.	10	-do-
44.	Ref-94/90	Charn Singh vs M/s Gabriel India Ltd., Parwanoo	10	-do-
45.	Ref-95/90	Parkash Chand vs Gabriel India Ltd. Parwanoo	10	-do-
46.	Ref-97/90	Girinder Singh vs -do-	10	-do-
47.	Ref-98/90	Prit Pal Singh vs -do-	10	-do-
48.	Ref-100/90	Tarlochan Singh vs -do-	10	-do-
49.	Ref-101/90	Rajinder Kumar vs -do-	10	-do-
50.	Ref-102/90	Mohan Lal vs -do-	10	-do-
51.	Ref. 105/90	Daljeet Singh vs -do-	10	-do-
52.	Ref-93/90	Karam Singh vs -do-	10	-do-
53.	Ref-75/92	Gurcharan Singh vs Divisional Manager H.R.T.C. Shimla	10	-do-
54.	Ref-59/92	Chaman Singh vs Asstt. Engineer, IPH Sub-Division Losi (Chmaba) Mohtali District Kangra (H.P.)	10	-do-
55.	Ref-1/94	Hosiar Singh vs M/s Classical Rubber Products Pvt. Ltd, Surajpur Mohtali District Kangra (H. P.)	10	-do-
56.	Ref-111/91	Radha Krishan & Others vs M/s Thirani Chemicals Ltd., Poanta.	10	-do-
57.	Ref-28/93	Ram Singh vs M/s Pamwi Trissues Ltd. Barotiwala, Distt. Solan (H.P.)	10	-do-
58.	Ref-21/91	Gabrial Employees Union vs M/s Gabriel India Ltd., Parwanoo	10	-do-

1	2	3	4	5
59.	Ref-137/93	Susheel Kumar vs M/s Prontos Ltd., Parwanoo		For publi-
60.	Ref-86/89	Mand Kishore vs M/s Jai Mata Rolled Glass (P) Ltd, Tipra Barotiwal		cation
61.	Ref-127/93	Ramesh Chand vs M/s Shivalik Knitpoly (P) Ltd, Meharpur	10	-do-
62.	Ref-155/90	Ran Chander vs Municipal Committee, Nahan	10	-do-
63.	Ref-73/92	Joint Action Karmachari Singh vs Managing Director, Kangra Central	10	-do-
		Co-op. Bank Ltd., Dharamshala	10	-do-
64.	Ref-31/92	Gen. Secy. Himachal Plant Employees Union vs Himachal Milk Plant Ltd.	10	-do-
		Paonta-Sahib		
65.	Ref-171/87	Village Paper Mazdoor Singh vs M/s Village Papers Ltd., Meharpur.	10	-do-
66.	Ref-54/90	Soni Nath vs M/s Jai Mata Rolled Glass Ltd., Tipra Barotiwal, Distt.	10	-do-
		Solan		
67.	Ref-56/90	Jai Singh vs M/s Jai Mata Rolled Glass Sect. Ltd., Tipra, Barotiwal,	10	-do-
		Distt. Solan		
68.	Ref-44/90	Mewa Singh vs -do-	10	-do-
69.	Ref-83/89	Swaran Singh vs -do-	10	-do-
70.	Ref-80/89	Shamsher Singh vs -do-	10	-do-
71.	Ref-39/90	Mukhtyar Singh vs -do-	10	-do-
72.	Ref-16/93	Hari Saran vs M/s Rohit Cables (P) Ltd, Parwanoo.	10	-do-
73.	Ref-53/93	Sunil Kumar & Others vs Collector, Forests Settlement, Hamirpur	10	-do-
74.	Ref-72/92	Ashwani Kumar vs Xen HPSI B Div., Rakkar, Distt. Una	10	-do-
75.	Ref-77/91	Chhabra Tubes Products Worker's Union vs M/s Chhabra Tubes Pro-		
		ducts Tharmajri, Distt. Una	10	-do-
76.	Ref-43/89	Kewal Singh vs M/s Himachal Fibres Ltd., Barotiwal	10	-do-
77.	Ref-81/89	Saddu Singh vs M/s Jai Mata Rolled Glass (P) Ltd., Tipra, Barotiwal	10	-do-
78.	Ref-88/89	Ram Lal Mehta vs M/s Jai Mata Rolled glass Ltd., Tipra, Barotiwal	10	-do-
79.	Ref-141/93	Satnam Singh vs M/s Abdul Hamid Contractor Bichar Tractor, Par-	10	-do-
		wanoo		
80.	Ref-7/92	Dilbag Chand vs the Bir Co-op., Tea Factory, District Kangra	10	-do-
81.	Ref-1/93	Salooni vs M/s Jai Parkash Associates Chamera Project, Banikhet		Publication
			10	of award.
82.	Ref-86/93	Niranjan Singh vs -do-	10	-do-
83.	Ref-71/93	Rajeshwar Dubey vs -do-	10	-do-
84.	Ref-109/92	Hari Raj vs M/s Chamera Jal Vidyut Pariyojana, Stage-I, Dalhousie	10	-do-
85.	Ref-2/91	Chamera Pariyojana Karamchhari Singh Banikhet vs -do-	10	-do-
86.	Ref-153/93	-do- vs -do-	10	-do-
87.	Ref-94/91	Bhola Ram & Others vs -do-	10	-do-
88.	Ref-90/92	Sarwan Nath & Others vs -do-	10	-do-
89.	Ref-1/92	Ashwani Kumar & Ors. vs -do-	10	-do-
90.	Ref-151/90	Gurmeet Singh & Others vs M/s Chamera Jal Vidyut Pariyojna,	10	-do-
		Stage-I Dalhousie.		
91.	Ref-68/90	Baldev Raj & Others vs -do-	10	-do-
92.	Ref-108/91	Baldev Ram vs -do-	10	-do-
93.	Ref-30/94	Dulo Ram vs Prop. Write Heaven Tea Estate Dharamshala	10	-do-
94.	Ref-91/92	Shyam Bhadur vs Asstt. Engineer, HPPWD Sub-Division II, Chamba	10	-do-
95.	Ref-78/93	Desh Raj vs DFO Wild Life Division, Chamba	10	-do-
96.	Ref-6/94	Shanti Devi vs M/s Himachal Fibres Ltd, Barotiwal, Distt. Solan	10	-do-
97.	Ref-81/93	Genral Secy. Shiyathin Linopack Workers Union, Parwanoo vs M/s		
		Menserve Techno Co-op. Services (P) Ltd., Parwanoo	10	-do-
98.	Ref-47/92	Kahlan Singh vs Xen, HPPWD (B&R) Paonta -do-	10	-do-
99.	Ref-56/94	Suresh Kumar vs M/s Sikand and Co. Chambaghat, Distt. Solan	10	-do-
100.	Ref-60/92	Dalep Ponga vs Xen HPPWD, Division Chamba	10	-do-
101.	Ref-64/93	Gulzar Singh vs Dy. Director Agriculture Nahan	10	-do-
102.	Ref-14/93	Tarun Sharma vs Xen HPPWD Division Chamba	10	-do-
103.	Ref-92/93	Nehraj Sharma vs -do-	10	-do-
104.	Ref-56/92	Dhian Singh alias Mahindroo vs S.E. HPPWD 12th Circle, Nahan	10	-do-
		(H. P.)		
105.	Ref-31/93	Uttam Singh vs Xen, Public Health Division Palampur, Distt. Kangra	10	-do-
106.	Ref-28/94	Ram Pal vs M/s B.C.C. Fuba India Ltd., Nalagarh, Distt. Solan	10	-do-
107.	Ref-63/93	Pritam Singh vs Xen, HPPWD (B&R) Division Paonta Sahib (H. P.)	10	-do-
108.	Ref-95/92	Jeetu vs Asstt. Engineer, HPPWD, Sub-Division, Salooni, Distt.		
		Chamba	10	-do-
109.	Ref-55/92	Khair Mohammad vs Xen, HPPWD, Sub-Division Tissa, Distt.		
		Chamba	10	-do-

By order,
S. S. SIDHU,
Financial Commissioner-cum-Secretary.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

wala, P.O. Verma Papri, Tehsil Nahan, District Sirmaur.

Reference No. 103/92

Versus

Petitioner.

Instituted on 15-12-1992

Executive Engineer, Himachal Pradesh Public Works
Department (Bridge & Roads), Nahan Division, Nahan,
District Sirmaur.

Respondent.

Decided on 19-11-1994

Shri Raj Kumar s/o Shri Santa Ram, Village Kandai-

Reference under section 10 of the Industrial Disputes
Act, 1947.

For petitioner : Shri A. K. Gupta, Advocate.

For respondent: Shri R. D. Jain, A.R.

AWARD

Through this reference, the State Government has referred the dispute with respect to the termination of the services of Shri Raj Kumar, for determination by this Court.

2. The case of the petitioner is that he was employed as 'holder on daily wages in March, 1988 by the Executive Engineer, (B & R), Himachal Pradesh Public Works Department Division, Nahan, hereinafter referred to as 'respondent' and thereafter, the petitioner worked continuously as such till 9-7-1990 on which date his services were terminated by the respondent. It is stated that though the respondent had served the petitioner with thirty days notice before the services of the petitioner were terminated, but, no compensation was paid by the respondent to the petitioner at the time of termination and the same was paid after about six months. Thus, it is stated that since the compensation was not paid at the time of termination, the termination is illegal and unjustified and the petitioner is entitled to re-instatement with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner has evaded the payment of compensation and as such, the same could not be made at the time of termination. Thus, it is stated that the respondent had made all the efforts to pay the compensation to the petitioner in accordance with the requirement of law, but, it was due to the fault of the petitioner that the compensation could not be paid in time. As such, it is stated that the petitioner is not entitled to any relief because the late payment of compensation was made due to the fault of the petitioner and there was no fault of the respondent.

4. On the aforesaid pleadings of the parties, following issues were framed :—

1. Whether the termination of the petitioner is illegal because of late payment of compensation, as alleged? If so, its effect? OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the above-mentioned issues are as under :—

FINDINGS

Issue No. 1: Yes.
Relief: Reference answered in favour of the petitioner.

REASONS FOR DECISION

6. Issue No. 1. It is admitted case of the parties that the provisions of section 25-F of the Industrial Disputes Act, 1947 are applicable to this case and that is why the respondent has terminated the services of the petitioner after the expiry of thirty days notice. However, the respondent had not paid the compensation to the petitioner at the time of termination and the same was paid after about six months of the termination. Therefore, the only question which requires determination, in this case, is as to whether the late payment of compensation in this case violates the provisions of section 25-F of the Industrial Disputes Act, 1947. Section 25-F of the Industrial Disputes Act, 1947 provides that before the services of a workman, who has rendered at least one year continuous service, are terminated, he shall be served with a thirty days notice or in lieu of notice, he shall be paid one month wages. Apart from this, it is provided that such workman shall also be paid compensation which shall be equivalent to fifteen days average

wages in respect of each completed year of service. There is no denying the fact that the said provisions of Section 25-F of the Industrial Disputes Act, 1947 are mandatory and violation thereof would render the termination illegal. Therefore, the employer is under legal obligation not only to serve the workman with a notice of thirty days before his services are terminated or to pay one month wages, as the case may be, but, also to pay compensation. In the case in hand, the respondent had served the petitioner with thirty days notice and the services of the petitioner were terminated. Only after the expiry of the said thirty days notice. However, the compensation was paid after about six months of the said termination. In order to justify the late payment of compensation, the respondent has taken the plea that the petitioner had evaded the payment of compensation. This plea is barren of substance because neither any question to this effect has been put to the petitioner in cross-examination, when the petitioner had appeared as his witness nor the respondent has led any evidence, at all, in support of its case. Therefore, there is nothing on record to support and prove the said plea of the respondent. Even otherwise, assuming that the petitioner had evaded the payment of compensation, even then, the respondent could have remitted the amount of compensation by money order to the petitioner, but, this was not done. So much so, when the payment of compensation was made to the petitioner after about six months of the termination of the petitioner, the respondent had called the petitioner to its office for receiving the said payment and the petitioner had gladly come to receive the same. This conduct of the respondent and consequent response of the petitioner would clearly go to show that the respondent had never made any effort to pay the compensation to the petitioner earlier than the occasion on which it was actually paid because had the petitioner actually evaded the payment of compensation, the petitioner would not have come to the office of the respondent to receive the compensation at the time when the compensation was actually paid to the petitioner. Therefore, the respondent has taken a baseless plea to defeat the claim of the petitioner. Accordingly, I hold that the respondent has failed to comply with the provisions of section 25-F of the Industrial Disputes Act, 1947 and as such, the termination of the petitioner is illegal and unjustified. Therefore, the petitioner has proved this issue. Accordingly, this issue is decided in favour of the petitioner.

RELIEF

7. As a result of my findings on the above-mentioned issue, I hold that the termination of the petitioner is illegal and unjustified and as such, the same is set aside and the petitioner is ordered to be re-instated with back wages, which are assessed at Rs. 15,000/-. As such, the reference is answered in favour of the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication in the H. P. Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the open court to day the 19th November, 1994 in the presence of the parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, (H.P.), Shimla,
Camp Paonta-Sahib.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. 119 of 1992.
Instituted on 17-12-1992.
Decided on : 19-11-1994.

Dal Singh son Shri Malha Ram, Village Hingoli, Post Office and Tehsil Nahani, District Shimla
Petitioner.

versus

Divisional Manager, Forest Working Division,
Himachal Pradesh Forest Corporation, Nahani
Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For Petitioner : Shri A. K. Gupta, Advocate.

For Respondent : Shri J. S. Sharma,
Respondent in person.

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of the petitioner Shri Dal Singh, hereinafter referred to as petitioner, for determination by this Court.

2. The case of the petitioner is that he was employed by the H. P. Forest Corporation, Nahani, hereinafter referred to as 'Respondent' as driver on daily wages in the year 1980 and thereafter, he had served the respondent continuously till February, 1990. It is alleged that after February, 1990, the respondent had terminated the services of the petitioner without any notice and compensation and as such, the termination of the petitioner is illegal and as such he is entitled to be reinstated with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner had abandoned the job himself and as such, his services were not terminated. It is also stated that the petitioner had not worked for 240 days during the year preceding the date of his termination and as such, he is not entitled to any relief.

4. On the aforesaid pleadings of the parties, following issues were framed:

1. Whether the termination of the petitioner is illegal and unjustified? If so, to what relief the petitioner is entitled to? OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For this reason to be recorded hereinafter, my findings on the aforesaid issues are as under:

FINDINGS

Issue No. 1 No.
Relief: Reference answered against the petitioner.

REASONS FOR DECISIONS

6. *Issue No. 1:* The evidence on record would clearly go to show that during the period of twelve calendar months preceding the date of alleged termination, the petitioner had not worked for 240 days. In order to prove that the termination of the petitioner is illegal, the petitioner has to establish that the respondent had failed to comply with the provisions of section 25-B of the Industrial Disputes Act, 1947. According to this section of law, a workman who has rendered not less than one year continuous service cannot be terminated except after the expiry of thirty days notice or in lieu of notice he is paid one month wages. Apart from this, such workman is also entitled to compensation equivalent to 15 days average wages in respect of every completed year of service. Further, Section 25-B of Industrial Disputes Act, 1947 defines the term 'one year continuous service'. It provides that a workman who has actually worked for

240 days in a calendar year shall be deemed to have rendered one year continuous service. Therefore, in order to obtain relief under section 25-B supra, the aggrieved workman has to prove that he has actually worked for 240 days during twelve calendar months preceding the date of his termination.

7. Adverting to the facts and circumstances of the case in hand, it may be stated that the petitioner in this case has miserably failed to prove that he had actually worked for 240 days during the period of twelve calendar months preceding the date of his termination. The fact that the petitioner has not worked for 240 days during the period in question, has been verified on the basis of the paid vouchers in respect of the wages which were paid to the petitioner. Shri J. S. Sharma, Divisional Manager of the respondent Forest Corporation has categorically stated that during the period from 1-1-1980 to 31-12-1980, the petitioner had worked for 133 days and during the period from 1-1-1990 to 30-2-1990, the petitioner had worked for 32 days. He has further stated that during the period from 30-3-1980 to 28-2-1990, the petitioner has worked for 165 days. Therefore, examining the case of the petitioner from any angle, it can clearly be held that he has not worked for 240 days. This being so, the petitioner is not entitled to any relief under section 25-B of the Industrial Disputes Act, 1947. As such, I hold that the petitioner has failed to prove this issue. Accordingly, this issue is decided against the petitioner.

RELIEF

8. As a result of my findings on Issue No. 1 supra, I hold that the petitioner has failed to prove that his termination is illegal and unjustified and as such, he is not entitled to any relief. Accordingly, the reference stands disposed of. A copy of this award is sent to the Government of Himachal Pradesh, Shimla for its publication in the Himachal Pradesh Gazette. A copy of this award is supplied to each of the parties free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 19th November, 1994 in the presence of parties.

Seal.

B. S. CHOCHAN,

Presiding Officer
Labour Court, H. P., Shimla,
Camp Panta-Sahib.

In the Court of Shri B. S. Chochan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. 7 of 1993.

Instituted on 15-1-1993

Decided on 19-11-1994.

Shri Balbir Singh/o Shri Haru Ram, Village Malonwala, P. O. Shambhuwala, Tehsil Nahani, District Shimla.
Petitioner.

versus

Executive Engineer, Himachal Pradesh Public Works Department (B&R), Nahani Division, Nahani, District Shimla.
Respondent.

Reference under section 10 of the Industrial Dispute Act, 1947.

For Petitioner: Shri A. K. Gupta, Advocate.

For Respondent: Shri R. D. Jain, A.R.

AWARD

Through this award, the State Government has referred the dispute with respect to the termination of the services of the petitioner Shri Bholu Singh hereinafter referred to as the 'petitioner', for determination by this Court.

2. The case of the petitioner is that he was employed as helper in daily wages in December, 1988 by the Executive Engineer (B & R), Himachal Pradesh Public Works Department, Bafra Division, hereinafter referred to as 'respondent' and thereafter the petitioner worked continuously as such, till 9-7-1990 on which date his services were terminated by the respondent. It is stated that though the respondent had served the petitioner with thirty days notice before the services of the petitioner were terminated, but, no compensation was paid by the respondent to the petitioner at the time of termination and the same was paid after about six months. Thus, it is stated that since the compensation was not paid at the time of termination, the termination is illegal and unjustified and the petitioner is entitled to reinstatement with back wages.

3. On the other hand, the respondent has pleaded the claim aforesaid of the petitioner on the ground that the petitioner had evaded the payment of compensation and as such, the same could not be made at the time of termination. Thus, it is stated that the respondent had made all the efforts to pay the compensation in the petitioner in accordance with the requirement of law, but, it was due to the fault of the petitioner that the compensation could not be paid in time. As such, it is stated that the petitioner is not entitled to any relief because the late payment of compensation was made due to the fault of the petitioner and there was no fault of the respondent.

4. On the aforesaid pleadings of the parties, following issues were framed :

1. Whether the termination of the petitioner is illegal because of late payment of compensation as alleged ? If so, its effect ?

2. Relief.

5. I have heard the representatives of the parties and have gone through the records. For the reasons to be recorded hereinafter, my findings on the above mentioned issues are as under :-

FINDINGS

Issue No. 11	Yes.
Relief:	Reference answered in favour of the petitioner.

REASONS FOR DECISION

6. Issue No.11 It is admitted case of the parties that the provisions of section 25-F of the Industrial Disputes Act, 1947 are applicable to this case and that is why the respondent has terminated the services of the petitioner after the expiry of thirty days notice. However, the respondent had not paid the compensation to the petitioner at the time of termination and the same was paid after about six months of the termination. Therefore, the only question which requires determination, in this case, is as to whether the late payment of compensation in this case violates the provisions of section 25-F of the Industrial Disputes Act, 1947. Section 25-F of the Industrial Disputes Act, 1947 provides that before the services of a workman, who has rendered at least one year continuous service are terminated, he shall be served with a thirty days notice or in lieu of notice, he shall be paid one month wages. Apart from this, it is provided that such workman shall also be paid compensation which shall be equivalent to fifteen days average wages in respect of each completed year of service. There is no denying the fact that the

said provisions of section 25-F of the Industrial Disputes Act, 1947 are mandatorily and violation thereof would render the termination illegal. Therefore, the employer is under legal obligation and under the obligation of law with a notice of thirty days before his services are terminated to pay one month wages, in the case in hand, after the termination. In the case in hand, the respondent had served the petitioner with thirty days notice and the services of the petitioner were terminated only after the expiry of the said thirty days notice. However, the compensation was paid after about six months of the said termination. In order to justify the late payment of compensation, the respondent has taken the plea that the petitioner had evaded the payment of compensation. This plea is based on substance because neither any question in this effect has been put to the petitioner in cross examination, when the petitioner had appeared as his witness nor the respondent had produced any evidence, at all, in support of its case. Therefore, there is nothing on record to support and prove the said plea of the respondent. Each other way, assuming that the petitioner had evaded the payment of compensation, even then, the respondent could have remitted the amount of compensation by money order to the petitioner, but, this was not done. Summing up, when the payment of compensation was made to the petitioner after about six months of the termination of the petitioner, the respondent had called the petitioner to its office for receiving the said payment and the petitioner had gladly come to receive the same. This conduct of the respondent and consequent response of the petitioner would clearly go to show that the respondent had never made any effort to pay the compensation to the petitioner earlier than the occasion on which it was actually paid because had the petitioner actually evaded the payment of compensation, the petitioner would not have come to the office of the respondent to receive the compensation at the time when the compensation was actually paid to the petitioner. Therefore, the respondent has taken a baseless plea to defeat the claim of the petitioner. Accordingly, I hold that the respondent has failed to comply with the provisions of section 25-F of the Industrial Disputes Act, 1947 and as such, the termination of the petitioner is illegal and unjustified. Therefore, the petitioner has proved this issue. Accordingly, this issue is decided in favour of the petitioner.

PRAYER

7. As a result of my findings on the above mentioned issue, I hold that the termination of the petitioner is illegal and unjustified and as such, the same is set aside and the petitioner is ordered to be reinstated with back wages, which are assessed at Rs. 15,000/-. As such, the reference is answered in favour of this petitioner and same stands disposed of. A copy of this award has sent to the Government of Himachal Pradesh, Shimla-2 for its publication in the Himachal Pradesh Gazette in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the open Court today the 19th November, 1993 in the presence of the parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, H. P. Shimla,
Camp Pancha Sahib.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Reference No. 15 of 1993

Instituted on : 18-1-1993

Decided on : 19-11-1993

Shri Chiranji Lal S/o Shri Baru Ram, Village Kandaiwala, P. O. Bampa Baori, Tehsil Nahan, District Sirmaur
.. Petitioner.

Versus

Executive Engineer, Himachal Pradesh Public Works Department (B & R), Nahan Division, Nahan, District Sirmaur
.. Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri. A. K. Gupta, Advocate.
For respondent: Shri R. D. Jain, AR.

AWARD

Through this reference, the State Government has referred the dispute with respect to the termination of the services of the petitioner Shri Chiranji Lal, hereinafter referred to as the 'petitioner', for determination by this Court.

2. The case of the petitioner is that he was employed as beldar on daily wages in January, 1988 by the Executive Engineer (B & R), Himachal Pradesh Public Works Department Nahan, Division, hereinafter referred to as 'respondent' and thereafter, the petitioner worked continuously as such, till 9-7-1990. On which date his services were terminated by the respondent. It is stated that through the respondent had served the petitioner with thirty days notice before the services of the petitioner were terminated, but, no compensation was paid by the respondent to the petitioner at the time of termination and the same was paid after about six months. Thus, it is stated that since the compensation was not paid at the time of termination is illegal and unjustified and the petitioner is entitled to re-instatement with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner had evaded the payment of compensation and as such, the same could not be made at the time of termination. Thus, it is stated that the respondent had made all the efforts to pay the compensation to the petitioner in accordance with the requirement of law but it was due to the fault of the petitioner that the compensation could not be paid in time. As such, it is stated that the petitioner is not entitled to any relief because the late payment of compensation was made due to the fault of the petitioner and there was no fault to the respondent.

4. On the aforesaid pleadings of the parties, following issues were framed :—

1. Whether the termination of the petitioner is illegal because of late payment of compensation, as alleged? If so, its effect? OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the above mentioned issues are as under :—

FINDINGS

Issue No. 1 : Yes.

Relief : Reference answered in favour of the petitioner.

REASONS FOR DECISION

Issue No. 1.

6. It is admitted case of the parties that the provisions of section 25-F of the Industrial Disputes Act, 1947 are applicable to this case and that is why the respondent has terminated the services of the petitioner after the expiry of thirty days notice. However the respondent had not paid the compensation to the petitioner

at the time of termination and the same was paid after about six months of the termination. Therefore, the only question which requires determination, in this case, is as to whether the late payment of compensation in this case violates the provisions of section 25-F of the Industrial Disputes Act, 1947. Section 25-F of the Industrial Disputes Act, 1947 provides that before the services of a workman, who has rendered at least one year continuous service, are terminated, he shall be served with a thirty days notice or in lieu of notice, he shall be paid one month wages. Apart from this it is provided that such workman shall also be paid compensation which shall be equivalent to fifteen days average wages in respect of each completed year of service. There is no denying the fact that the said provisions of section 25-F of the Industrial Disputes Act, 1947 are mandatory and violation thereof would render the termination illegal. Therefore, the employer is under legal obligation not only to serve the workman with a notice of thirty days before his services are terminated or to pay one month wages, as the case may be, but, also to pay compensation. In the case in hand, the respondent had served the petitioner with thirty days notice and the services of the petitioner were terminated. Only after the expiry of the said thirty days notice. However, the compensation was paid after about six months of the said termination. In order to justify the late payment of compensation, the respondent has taken the plea that the petitioner had evaded the payment of compensation. This plea is barren of substance because neither any question to this effect has been put to the petitioner in cross examination, when the petitioner had appeared as his witness nor the respondent has led any evidence, at all, in support of its case. Therefore, there is nothing on record to support and prove the said plea of the respondent. Even otherwise, assuming that the petitioner had evaded the payment of compensation, even then, the respondent could have remitted the amount of compensation by money order to the petitioner, but, this was not done. So much so, when he payment of compensation was made to the petitioner after about six months of the termination of the petitioner, the respondent had called the petitioner to its office for receiving the said payment and the petitioner had gladly come to receive the same. This conduct of the respondent and consequent response of the petitioner would clearly go to show that the respondent had never made any effort to pay the compensation to the petitioner earlier than the occasion on which it was actually paid because had the petitioner actually evaded the payment of compensation, the petitioner would not have come to the office of the respondent to receive the compensation at the time when the compensation was actually paid to the petitioner. Therefore, the respondent has taken a baseless plea to defeat the claim of the petitioner. Accordingly, I hold that the respondent has failed to comply with the provisions of section 25-F of the Industrial Disputes Act, 1947 and as such, the termination of the petitioner is illegal and unjustified. Therefore the petitioner has proved this issue. Accordingly, the issue is decided in favour of the petitioner.

RELIEF

7. As a result of my findings on the above mentioned issue, I hold that the termination of the petitioner is illegal and unjustified and as such, the same is set-aside and the petitioner is ordered to be re-instated with back wages, which are assessed at Rs. 15,000/-. As such, the reference is answered in favour of the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the open Court today the 19th November, 1994 in the presence of the parties.

Seal.

B. S. CHOUHAN,

Presiding Officer,

Labour Court, H. P., Shimla,
Camp Paonta Sahib.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

REASONS FOR DECISION

Reference No. 8 of 1993

Instituted on : 15-1-1993

Decided on : 19-11-1994

Shri Ramesh Kumar s/o Shri Madan Lal, Village
Janali, P. O. Surla, Tehsil Nahan, District Sirmour,
Himachal Pradesh .. Petitioner.

Versus

Executive Engineer, Himachal Pradesh Public Works
Department (B & R), Nahan Division, Nahan, District
Sirmour .. Respondent.

Reference under section 10 of the Industrial Disputes
Act, 1947.

For petitioner : Shri A. K. Gupta, Advocate.

For respondent: Shri R. D. Jain, AR.

AWARD

Through this reference, the State Government has referred the dispute with respect to the termination of the services of the petitioner Shri Ramesh Kumar hereinafter referred to as the 'petitioner', for determination by this Court.

2. The case of the petitioner is that he was employed as beldar on daily wages in December, 1983 by the Executive Engineer (B & R), Himachal Pradesh Public Works Department Division, Nahan, hereinafter referred to as 'respondent' and thereafter, the petitioner worked continuously as such, till 9-7-1990 on which date his services were terminated by the respondent. It is stated that though the respondent had served the petitioner with thirty days notice before the services of the petitioner were terminated, but, no compensation was paid by the respondent to the petitioner at the time of termination and the same was paid after about six months. Thus, it is stated that since the compensation was not paid at the time of termination, the termination is illegal and unjustified and the petitioner is entitled to re-instatement with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner had evaded the payment of compensation and as such, the same could not be made at the time of termination. Thus, it is stated that the respondent had made all the efforts to pay the compensation to the petitioner in accordance with the requirement of law, but, it was due to the fault of the petitioner that the compensation could not be paid intime. As such, it is stated that the petitioner is not entitled to any relief because the late payment of compensation was made due to the fault of the petitioner and there was no fault of the respondent.

4. On the aforesaid pleading of the parties, following issues were framed :—

1. Whether the termination of the petitioner is illegal because of late payment of compensation, as alleged ? If so, its effect ? OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the above-mentioned issues are as under :—

FINDINGS

Issue No. 1 : Yes.

Relief : Reference answered in favour of the petitioner.

Issue No 1 :

6. It is admitted case of the parties that the provisions of section 25-F of the Industrial Disputes Act, 1947 are applicable to this case and that is why the respondent has terminated the services of the petitioner after the expiry of thirty days notice. However, the respondent had not paid the compensation to the petitioner at the time of termination and the same was paid after about six months of the termination. Therefore, the only question which requires determination, in this case, is as to whether the late payment of compensation in this case violates the provisions of section 25-F of the Industrial Disputes Act, 1947. Section 25-F of the Industrial Disputes Act, 1947 provides that before the services of a workman, who has rendered at least one year continuous service, are terminated, he shall be served with a thirty days notice or in lieu of notice, he shall be paid one month wages. Apart from this, it is provided that such workman shall also be paid compensation which shall be equivalent to fifteen days average wages in respect of each completed year of service. There is no denying the fact that the said provisions of section 25-F of the Industrial Disputes Act, 1947 are mandatory and violation thereof would render the termination illegal. Therefore, the employer is under legal obligation not only to serve the workman with a notice of thirty days before his services are terminated or to pay one month wages, as the case may be, but, also to pay compensation. In the case in hand, the respondent had served the petitioner with thirty days notice and the services of the petitioner were terminated only after the expiry of the said thirty days notice. However, the compensation was paid after about six months of the said termination. In order to justify the late payment of compensation, the respondent has taken the plea that the petitioner had evaded the payment of compensation. This plea is barren of substance because neither any question to this effect has been put to the petitioner in cross-examination, when the petitioner had appeared as his witness nor the respondent has led any evidence, at all in support of its case. Therefore, there is nothing on record to support and prove the said plea of the respondent. Even otherwise, assuming that the petitioner had evaded the payment of compensation, even then, the respondent could have remitted the amount of compensation by money order, to be petitioner, but, this was not done. So much so, when the payment of compensation was made to the petitioner after about six months of the termination of the petitioner, the respondent had called the petitioner to its office for receiving the said payment and the petitioner had gladly come to receive the same. This conduct of the respondent and consequent response of the petitioner would clearly go to show that the respondent had never made any effort to pay the compensation to the petitioner earlier than the occasion on which it was actually paid because had the petitioner actually evaded the payment of compensation, the petitioner would not have come to the office of the respondent to receive the compensation at the time when the compensation was actually paid to the petitioner. Therefore, the respondent has taken a baseless plea to defeat the claim of the petitioner. Accordingly, I hold that the respondent has failed to comply with the provisions of section 25-F of the Industrial Disputes Act, 1947 and as such, the termination of the petitioner is illegal and unjustified. Therefore, the petitioner has proved this issue. Accordingly, this issue is decided in favour of the petitioner.

RELIEF

7. As a result of my findings on the above mentioned issue, I hold that the termination of the petitioner is illegal and unjustified and as such, the same is set-aside and the petitioner is ordered to be re-instated with back wages, which are assessed at Rs. 15,000/-. As such, the reference is answered in favour of the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication in the Himachal Rajpatra in accordance

with law. A copy of this award be supplied to each of the parties free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 19th November, 1994 in the presence of the parties.

Seal, **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, H. P. Shimla,
Camp Panta Sahib.

In the court of **Shri B. S. Chaudhan, Presiding Officer,**
Labour Court, Himachal Pradesh, Shimla

Reference No. 114 of 1992
Instituted on : 20-12-1992
Decided on : 19-11-1994

Shri Krishan Datt s/o Shri Hari Datt, Village and Post Office Rama, Tehsil Nahan, District Sirmour,
Petitioner.

Versus

Branch Manager, H. P. Financial Corporation Nahan, District Sirmour
Respondent.

Reference: under section 10 of the Industrial Disputes Act, 1947.

For petitioner : **Shri A. K. Gupta, Advocate,**
For respondent : **Shri K. C. Rana, Respondent.**

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of **Shri Krishan Datt**, hereinafter referred to as "petitioner", for determination by this court.

2. The case of the petitioner is that he was appointed as chowkidar on daily wages on 21-3-1988 by the Himachal Pradesh Financial Corporation, hereinafter referred to as "respondent" and thereafter, he worked continuously as such, till 3-4-1992 when his services are alleged to have been terminated without any notice and compensation. Thus, the petitioner has stated that his termination is illegal and the same be set-aside and he be re-instated with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner was appointed for a limited period as Chowkidar of sick industrial units which were taken over by the respondent and subsequently, when such sick units were sold, the services of the petitioner were terminated because there was no other work for him. Thus, it is stated that the petitioner is not entitled to any relief.

4. On the aforesaid pleadings of the parties, following issues were framed :

1. Whether the termination, in question, of the petitioner is illegal and unjustified? If so, to what relief and compensation, the petitioner is entitled to? OPP.

2. Relief.

5. I have heard the representative of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :

FINDINGS

Issue No. 1: Yes.
Relief: Reference answered in favour of the petitioner.

REASONS FOR DECISION

Issue No. 1:

6. It is admitted by the respondent that the petitioner worked as Chowkidar on daily wages during the period from March, 1988 to April, 1992. In order to prove his case to the effect that the termination of his services is illegal, the petitioner has to establish that the respondent had not complied with the conditions of section 25-F of the Industrial Disputes Act, 1947 before his services were terminated. Section 25-F supra provides that no workman who has rendered at least one year continuous service shall be terminated except after the expiry of thirty days notice or in lieu of such notice, he shall be paid wages for one month. Apart from this, it is provided in the said section of law that such workman shall also be entitled to compensation equivalent to 15 days average wages for every completed year of service. Further, section 25-B of the Industrial Disputes Act, 1947 defines the term 'one year continuous service'. It provides that a workman who has actually worked for 240 days in a calendar year, shall be deemed to have rendered one year continuous service. Therefore, in order to bring a particular case within the ambit of section 25-F supra, a workman has to establish that he has worked for 240 days during the calendar year preceding the date of his termination. In the case in hand, the respondent has admitted that the petitioner had worked continuously for four years. As such, the petitioner is entitled to the protection of section 25-F. As regards the compliance of section 25-F of the Industrial Disputes Act, 1947, the respondent has admitted that it has not complied with the provisions of the said section of law. The case of the respondent is that since the appointment of the petitioner was for a limited period, the provisions of section 25-F supra do not apply. The representative of the respondent has also argued that the appointment of the petitioner was for a limited period and as such, the petitioner is not entitled to the protection of section 25-F of the Industrial Disputes Act, 1947. I have considered the said argument and find that the same does not have any basis because the respondent has miserably failed to lead evidence to the effect that the said employment of the petitioner was a contractual one so as to bring the same out of the purview of section 25-F supra. So much so, the respondent has also not placed on record any copy of appointment letter of the petitioner so as to appreciate the argument, aforesaid of the representative of the respondent. Therefore, there is nothing on record on the basis of which it may be held that the appointment of the petitioner was a contractual one and the same was for a limited period. As such, I am of the view that provisions of section 25-F supra are applicable to the present case. Since the respondent has not complied with the provisions of section 25-F of the Industrial Disputes Act, 1947, while dispensing with the services of the petitioner, the termination of the petitioner is illegal and justified and the petitioner is entitled to re-instatement with back wages. Accordingly, I hold that the petitioner has proved this issue. As such, this issue is decided in favour of the petitioner.

RELIEF

7. As a result of my findings on the aforesaid issue in view, I hold that the termination of the petitioner is illegal and unjustified and as such, the same is set-aside and the petitioner is ordered to be re-instated with full back wages. As such, the reference is answered in favour of the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication in accordance with law. A copy of this award be supplied to each of the parties free of cost. The file after its completion to be consigned to the record room.

Announced in the Open Court today the 19th November, 1994 in the presence of parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, H. P. Shimla,
Camp Panta Sahib.

In the Court of Shri B. S. Chauhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. 14 of 1990
Instituted on : 17-3-1990
Decided on : 30-11-1994

HRTC B-Grade Clerks Union, Shimla Petitioners,

Verana

The Management of Himachal Road Transport
Corporation, Shimla through its Managing Director
..... Respondent.

Reference under Section 10 of the Industrial Disputes
Act, 1947.

For petitioners : Shri Parkash Kalia, AP
For respondent : Shri K.C. Chauhan, AP.

AWARD

Through this reference, the State Government has referred the dispute with regard to the demand of B-Grade Clerks of the Himachal Road Transport Corporation, hereinafter referred to as 'petitioners', for determination by this Court.

2. The brief facts of the case are that prior to 1-1-1979, there were two categories of Clerks in the Himachal Road Transport Corporation, out of which one was that of A-Grade Clerks, while the other was that of B-Grade Clerks. The pay scale of A-grade Clerks was Rs. 110 - 250, while that of B-Grade Clerks it was Rs. 110 - 200. Under the then recruitment and promotion rules of the Himachal Road Transport Corporation, B-Grade Clerks were entitled to promotion to the posts of A-Grade Clerks. This position continued till the revision of pay scales, which was made in 1980 retrospectively, w.e.f. 1-1-1978. According to the revised pay scales, both these categories of Clerks were brought at par not only in the matter of time scale of Rs. 400 - 600, but also in respect of senior scale of Rs. 510 - 800 which was to be given after completion of three years of service. Subsequently, the HRTC had amalgamated the cadre of both these categories of Clerks in 1980 retrospectively w.e.f. 1-1-1979. While doing so, A-Grade Clerks were kept above B-Grade Clerks in the joint seniority and since then there is only one category of Clerks in the HRTC.

3. The case of the aggrieved the then B-Grade Clerks which has been espoused by them through their convener Shri Parkash Chand Kalia who has also been a B-Grade Clerk is that their category of B-Grade Clerks should not have been amalgamated because by doing so they have been deprived of promotion avenues because all of them have been placed in the seniority list below A-Grade Clerks. Thus, they have raised a demand to the effect that B-Grade Clerks should be allowed to have separate cadre, seniority and Recruitment & Promotion Rules.

4. On the other hand, the respondent Himachal Road Transport Corporation, hereinafter referred to as 'respondent', has contested the claim aforesaid of the petitioners B-Grade Clerks on the ground that there is no justification for separate cadre of B-Grade Clerks in view of the fact that both these categories of Clerks have now been placed in the pay scale of Rs. 400 - 600. As regards the Seniority of B-Grade Clerks, which has been fixed after amalgamation of their category, it has been stated that these B-Grade Clerks were junior to A-grade Clerks because prior to revision of pay scale, B-grade Clerks were promoted to A-Grade Clerks. Thus, it is stated that B-Grade Clerks cannot be given seniority over A-Grade Clerks. It has also been stated that the present claim of B-Grade Clerks is not maintainable because B-Grade Clerks Association is not a registered union and as such, it is not a juristic entity and, thus, it does not

have any locus standi to prefer the present claim. Lastly it is stated that the petitioners are not workmen. Thus, it is stated that the petitioners B-Grade Clerks do not have any merit in their claim and they are not entitled to separate cadre of B-Grade Clerks.

5. On the aforesaid pleadings of the parties, following issues arise for decision :

1. Whether there is justification for keeping the cadre of B-Grade Clerks separate from the cadre of A-Grade Clerks ?
2. Whether the Association of the petitioners B-Grade Clerks is not a registered union, if so its effect ?
3. Whether the petitioners are not workmen, as alleged ? If so, its effect ?

4. Relief.

5. I have heard the representatives of the parties and have gone through the records. For the reasons to be recorded hereinafter my findings on the abovementioned issues are as under :-

FINDINGS

Issue No. 1 : No.

Issue No. 2 : Not pressed.

Issue No. 3 : Not pressed.

Relief : Reference answered against the petitioners.

REASONS FOR DECISION

Issue No. 1 :

6. It is admitted case of the parties that prior to 1-1-1979, there were two categories of Clerks that is A-Grade Clerks and B-Grade Clerks and not only the scale of A-Grade Clerks was higher than the B-Grade Clerks, but their duties and responsibilities were also higher because B-Grade Clerks used to be promoted to A-Grade Clerks. However, when the pay scales was revised with effect from 1-1-1978, these two categories of Clerks were placed in the same pay scale of Rs. 400 - 600. Not only this, but, they were also given the same senior scale of Rs. 510 - 800 to which they were entitled to after completion of three years of service. Therefore, there was justification for merger of these two categories of Clerks and as such, the action of the management vide which these two categories of Clerks were amalgamated, was justified. Evidently, as a result of such amalgamation, the category of B-Grade Clerks was equated and merged with A-Grade Clerks. The representative of the B-Grade Clerks has urged that on account of amalgamation B-Grade Clerks have lost promotional avenues. According to him, B-Grade Clerks had promotional avenues not only to the posts of A-Grade Clerks, but also to the posts of Inspectors, to the extent of certain percentage. I have considered the said argument and am of the view that the same does not have any force because as a result of amalgamation of B-Grade Clerks with that of A-Grade Clerks, there has been, in one manner, cent per cent promotion of B-Grade Clerks to a A-Grade Clerks, which otherwise, had the cadre of B-Grade Clerks been kept separate, would not have been possible for year together. However, it is admitted case of the parties that benefit of FR 22-C has not been given to B-Grade Clerks with effect from 1-1-1979 when the category of B-Grade Clerks was amalgamated with A-Grade Clerks, probably because the scales of both these categories which were revised with effect from 1-1-1978, as mentioned above, were the same. But, it remains a fact that the posts of A-Grade Clerks carried higher duties and responsibilities and as soon as B-Grade Clerks were equated

and amalgamated with A-grade Clerks, though they were kept junior to A-grade Clerks, they stood automatically vested with the higher duties and responsibilities. Thus, these B-grade Clerks, who were working as on-1-1-1979 i.e. on the date of amalgamation, were entitled to the benefit of F. R. 22-C which benefit has not been given to them. Therefore, except the benefit of F. R. 22-C, I find no material on record, which could justify the claim of B-grade Clerks for separate cadre, seniority and Recruitment and Promotion Rules. Thus, the B-grade Clerks have failed to prove that there is justification for separate cadre, seniority and recruitment and promotion rules of B-grade Clerks. Accordingly, I hold that the petitioners have failed to prove this issue. As such, this issue is decided against the petitioners.

7. Issues No. 2 and 3

The representative of the respondent has not pressed these issues and as such, these issues are decided against the respondent.

RELIEF

8. Keeping my findings on the aforesaid issue in view I hold that the demand of B-grade Clerks for separate cadre, seniority and recruitment and promotion rules, is not justified. However, the B-grade Clerks who have been working on the date of amalgamation are entitled to the benefit of F. R. 22-C. As such, the reference stands disposed of. A copy of his award be sent to the Government of Himachal Pradesh, Shimla for its publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applicable. The file after its completion be consigned to record room.

Announced in the Open Court to day the 30th November, 1994 in the presence of the parties.

Sd/- **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, H. P., Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. : 57 of 1992

Instituted on : 4-1-1993

Decided on : 29-11-1994

Shri Om Parkash s/o Shri Chet Ram, Village Vyas, P. O. Kori Vyas, Tehsil Paonta, District Sirmour, Himachal Pradesh
.. Petitioner.

Versus

The Executive Engineer, G.ri Irrigation Division, Majra, Tehsil Paonta, District Sirmour, Himachal Pradesh
.. Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri A. K. Gupta, Advocate

For respondent : Shri O. P. Chauhan, AR.

AWARD

Through this reference the State Government has referred the dispute with regard to the termination of the service of Shri Om Parkash Sharma hereinafter referred to as 'petitioner' for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent as baldar in 1986 on daily wages. He worked continuously till 25-4-1990 when he was terminated without any notice and compensation. The petitioner has alleged that his termination is illegal and as such the same be set-aside and he be re-instated with back wages.

3. On the other hand the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner was not terminated but he had abandoned the job himself. However it is admitted that the petitioner was employed in the year 1986 as baldar on daily wages and he had worked till 25-4-1990.

Thus it is stated that the petitioner is not entitled to any relief.

4. On the aforesaid pleadings of the parties, following issues arise for decision.

1. Whether the termination of the petitioner Shri Om Parkash is illegal and unjustified? If so to what relief the petitioner is entitled to? OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the above mentioned issues are as under :—

FINDINGS

Issue No. : Yes

Relief : Petitioner re-instated with back wages.

REASONS FOR DECISION

6. Issue No. 1

In order to prove that the termination of the petitioner is illegal and unjustified, the petitioner has to bring his case within the ambit of section 25-F of the Industrial Disputes Act, 1947, which section deals with the termination cases like the present one. For the purpose of bringing the case within the ambit of said section of law, the petitioner has to establish that he has rendered one year continuous service prior to the date of termination. Once the petitioner has established that he had rendered one year continuous service prior to the date of his termination he has to prove that he was terminated by the respondent without complying with the provisions of section 25-F of the Industrial Disputes Act, 1947. Section 25-B of the Industrial Disputes Act, 1947 provides that a workman who has actually worked for 240 days during a calendar year, shall be deemed to have completed one year continuous service. Further, Section 25-F of the Industrial Disputes Act, 1947 provides that no workman who has rendered one year continuous service shall be terminated except after the expiry of thirty days notice or in lieu of notice, he shall be paid one month wages. Apart from this, section 25-F supra provides that such workman shall also be paid compensation at the time of his termination, which shall be equivalent to fifteen day average wages in respect of every completed year of service.

7. Adverting to the facts and circumstances of the case and the evidence on record, it can straight-away be held that the respondent has admitted that the petitioner had been in continuous service since 1986 till his services were terminated. Therefore, it can clearly be held that the petitioner had worked for 240 days within twelve calendar months prior to the date of his alleged termination. Thus, the petitioner is entitled to the protection of section 25-F of the Industrial Disputes Act, 1947. It is a settled proposition of law that the provisions of section 25-F of the Industrial Disputes Act, 1947 are mandatory and non-compliance thereof would render the termination illegal. Admittedly, in the case in hand, the res-

ponder it has not complied with the said provisions of law. However, while appearing as his own witness, the petitioner has clearly stated that he had not abandoned the services him self. This testimony of the petitioner has not been shaken in cross examination. On the other hand, the respondent has not led any evidence, at all. Therefore, the respondent has failed to prove that the petitioner was not terminated and he had abandoned the services himself. As such, the petitioner has proved that his services have been terminated by the respondent without complying with the provisions of section 25-F of the Industrial Disputes Act, 1947. This being so, it comes to the conclusion that the termination of the petitioner is illegal and unjustified and the petitioner is entitled to re-instatement with back wages. Accordingly the petitioner has proved this is sue and the same is decided in favour of the petitioner.

RELIEF

8. Keeping my findings on the aforesaid issues in view I hold that the termination of the petitioner is illegal and unjustified and as such, the same is set-aside and the petitioner is ordered to be re-instated with back wages, which are assessed at Rs. 10,000/-. As such, the reference is answered in favour of the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication in the Rajpatra. A copy of this award be supplied to each of the parties free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 29th November, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, H. P., Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No: 66 of 1992

Instituted on : 29-8-1992

Decided on : 14-11-1994

Shri Sohan Lal/s/o Shri Ram Krishan, Village: Vankala,
P. O. Shambhuwala, Tehsil Nahan, District Sirmaur
Petitioner.

Versus

Executive Engineer, Himachal Pradesh State Electricity
Board Division, Nahan, District Sirmaur Respondent.

Reference under section 10 of the Industrial Disputes
Act, 1947.

For petitioner: None

For respondent : Shri S. K. Arora, AR

AWARD

Through this reference, the State Government has referred the dispute with respect to the termination of the services of the petitioner Shri Sohan Lal, for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent as beldar on daily wages in the year 1981 and thereafter, he worked continuously till

23-10-1990, on which date he was terminated without any notice and compensation. Thus, the petitioner has alleged that his termination is illegal and same be set aside and he be re-instated with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that neither the petitioner had worked for 240 days during the calendar year, in question, nor he was terminated. It is further stated that the petitioner had abandoned the services himself. Thus, it is stated that the petitioner is not entitled to any relief.

4. On the aforesaid pleadings of the parties, following issues were framed :-

1. Whether the termination of the petitioner Shri Sohan Lal is illegal and unjustified? If so, to what relief the petitioner is entitled to? OPP.
2. Relief.

I have gone through the written arguments submitted by the parties and have also gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :-

FINDINGS

Issue No. : 1.	No
Relief :	Reference answered against the petitioner.

REASONS FOR DECISION

6. Issue No : 1

The scrutiny of the oral as well as documentary evidence on record would go to show that the petitioner has not worked for 240 days during the calendar year, in question. Section 25-F of the Industrial Disputes Act, 1947 provides that no workman who has completed one year continuous service shall be terminated except after the expiry of thirty days notice or in lieu of such notice, he shall be paid wages for one month. It is further provided in the said section of law that apart from the notice or wages, as the case may be, the workman shall also be entitled to compensation equivalent to 15 days average wages for every completed year of service. Section 25-B of the Industrial Disputes Act, 1947 provides that if a workman has actually worked for 240 days during the calendar year, in question, he shall be deemed to have rendered one year continuous service. Thus, for the purpose of obtaining relief under section 25-F of the Industrial Disputes Act, 1947, a workman has first to prove that he has worked for at least for 240 days during the period of one year preceding the date of his termination. The provisions of section 25-F supra are mandatory and violation thereof would render the termination illegal.

7. Adverting to the facts and circumstances of the case and the evidence on record, it may be stated that despite the fact that the petitioner has lead a plethora of documents in evidence, he has not been able to prove that he has worked for 240 days during the period of one year preceding the date of his alleged termination. In fact, the evidence which has been led by the respondent would clearly go to show that during the period from 1986 to 1990, the petitioner has not worked for 240 days in any of the calendar year and that is why his name does not appear in the seniority list, a copy of which is Ex. R-2 and has been placed on record by the respondent. Apparently, if the petitioner has not worked for 240 days during the period of one year preceding the date of his termination, he is not entitled to protection of section 25-F supra. Therefore, I hold that the petitioner has failed to prove this issue. Accordingly, this issue is decided against the petitioner.

RELIEF

8. Keeping my findings on the aforesaid issue in view I hold that the petitioner is not entitled to any relief and as

such, reference is answered against the petitioner and accordingly, the reference stands disposed of. Parties be informed accordingly. A copy of this award be sent to the Government of Himachal Pradesh, Shimla- 2 for its publication. A copy of this award be supplied to the parties, free of cost, if applied for. The file after its completion be consigned to record room.

Announced in Open Court today the 14th November, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, H. P., Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. : 41 of 1989
Instituted on : 24-9-1989
Decided on : 16-11-1994

Shri Baldev Singh and others .. Petitioners.

Versus

M/s Himachal Fibres Ltd., Barotiwala, District Solan .. Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioners : In person with Shri Ashok Prohit, A. R. for petitioners,

For respondent : Shri Kamal Bhanot, AR

AWARD

This order will dispose of four similar references, all dated 22-4-1989 *vide* which the State Government has referred the dispute regarding the termination of S/Shri Baldev Singh, Balbir, Deva Nand and Ram Janam, hereinafter referred to as 'Petitioners' for determination by this Court. Since common questions of facts and law are involved in these references, the same have been consolidated together for recording evidence and decision thereof.

2. The case of the petitioners is that they were employed as workers by M/s Himachal Fibres Ltd., Barotiwala, hereinafter referred to as 'Respondent' in the years, 1984-85 and thereafter, they had served the respondent till 1986 when there had been violence in the factory of the respondent as a result of which the petitioners were charge-sheeted for misconduct and subsequently, on the basis of the enquiry report, they were held guilty of misconduct and were terminated from service. It is alleged that the petitioners had not indulged in any violence and rather it was the management who had created violence itself in order to disuade the workers from forming their union. It is further alleged that no proper enquiry was held against the petitioners and they were not given opportunity to defend themselves. Thus, it is stated that the termination of the petitioners is illegal and the same be set aside and the petitioners be re-instated with full back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioners on the ground that the petitioners alongwith other workers had resorted to violence and had caused simple and grievous injuries to the officers of the management. It is stated that the said incident was reported to the police, and a criminal case had been registered against the petitioners and other workers. It is further stated that subsequently, the petitioners and certain other workers were charge-sheeted in respect of the said misconduct and enquiry was held

against them and on the basis of the report of the Inquiry Officer, who had held them guilty of misconduct, the petitioners were terminated. Thus, it is stated that the termination of the petitioners is legal and justified and they are not entitled to re-instatement.

4. On the aforesaid pleadings, following common issues were framed by the learned predecessor :

1. Whether the domestic enquiry which was held by the respondent was legal and proper? OPR.
2. If issue No. 1 *supra* is not proved, whether the termination of the services of the petitioner is legal and justified? OPR.
3. If issue No. 2 *supra* is not proved by the respondent, to what relief the petitioners are entitled to? OPP.
4. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the above mentioned issues are as under :—

FINDINGS :

Issue No. : 1	No
Issue No. : 2	Yes
Issue No. : 3	Does not require any decision.
Relief	All the four references answered against the petitioners.

REASONS FOR DECISION :

6. Issue No. 1

The respondent-management has failed to prove this issue because the record of the domestic enquiry has not been produced. The representative of the respondent has stated that the record of the enquiry is not traceable. Therefore, it can straightaway be held that the respondent has failed to prove this issue. Accordingly, this issue is decided against the respondent.

7. Issue No. 2

The respondent has been allowed to lead independent evidence in order to prove the misconduct of the petitioners, which was subject matter of the domestic enquiry. In order to prove the misconduct of the petitioners the respondent has led oral as well as documentary evidence. The oral evidence consists of the statements of Shri Romesh Chand Shimali (RW-2) and Shri Shyam Lal Baldi (RW-3). Shri Romesh Chand Shimali (RW-2), has categorically stated that on 5-11-1986 there was violence in the factory as a result of which the petitioners had beaten him and S/Shri S. L. Baldi, Rawal and other officers of the respondent factory by means of Lathis and Iron rods on account of which they had sustained multiple injuries and the arm of the Production Manager Shri B. D. Shukla had been fractured. He has further stated that on account of the said violence, he had left the service of the respondent. Similarly, Shri S. L. Baldi (RW-3) has stated that at about 3.00 p.m. on 5-11-1986, there was violence in the respondent factory as a result of which the petitioners had beaten him and other officers of the factory i.e. S. Shri Rawal, Sharma and Shimali, on account of which serious injuries were sustained by them. He has further deposed that on account of the said violence, arm of the Production Manager had been broken. He has also stated that as a result of the said violence, he had left the service of the respondent. It is further evident from the statements of these witnesses that the management had reported the said incident of violence,

to the police and the injured were medically examined on the same day. The respondent management has also placed on record Ex. R-2 to Ex. R-6, which are copies of the medical certificates in respect of the injuries which were sustained by S/Shri B. D. Shukla, Production Manager, S. L. Baldi, Romesh Chand Shrimali, M. R. Rawal and S. P. Sharma. The perusal of the contents of these medical certificates would go to show that these injured officers were examined by the Medical Officer, Rural Hospital, Nalagarh on 5-11-1986 itself on the written request of the Police and a copy of the said request is Ex. R-7. It is also evident from the contents of these certificates that the above mentioned officers had sustained simple as well as grievous injuries. The testimony of the two witnesses aforesaid, which have been examined by the respondent, has not been shaken despite effective cross-examination. Therefore, it can clearly be held on the basis of the evidence aforesaid which has been led by the respondent that the petitioners had indulged in violence as a result of which they had caused a simple as well as grievous injuries to the officers of the respondent management. On the other hand, the petitioners have miserably failed to explain their conduct and to show that they had not indulged in the said violence and the respondent has implicated them falsely. In fact, whatsoever evidence the petitioners have led in support of their defence to the effect that they had not given beatings to the officers of the respondent, the same is totally insufficient to rebut the evidence aforesaid of the respondent.

8. During the course of arguments, the representative of the petitioners raised two arguments. The first is that the doctor concerned has not been examined as such, the copies of medical certificates which have been led in evidence, have not been proved. Secondly, he has stated that the criminal case which had been registered on the basis of the incident, in question, has since been compromised, and as such, the penalty which has been imposed on the petitioners is not justified. I have considered both these arguments and am of the view that the same do not have any force. No doubt, the doctor concerned has not been examined probably because he may not be available now as the matter is an old one, but, it remains a fact that the copies of the medical certificates have been allowed to be exhibited only after it was found that the same were certified and genuine copies of the original medical certificates. These copies have been duly certified by the Medical Officer of Rural Hospital, Nalagarh. Further, the contents of these medical certificates have duly been corroborated by the oral evidence which has been led by the respondent. Furthermore, it is not of their own that the injured officers had appeared before the medical officer, but, they were taken by the police with a written request and Ex. R-7 is a copy of the said written request. Moreover the standard of proof which is required in a case like the present one is not the same as that of a criminal case. Therefore, I am of the view that the medical evidence which has fully been corroborated by the oral evidence of the respondent is quite credible and convincing and the same can be relied upon as proof of the injuries which were sustained by the officers of the respondent as a result of the beatings given by the petitioners. As regards the second argument that the criminal case has been compromised and as such, penalty, in question, is not justified, it may be stated that even if the criminal case concerning the misconduct, in question, has ended in compromise, even then that would not mean that the petitioners would stand exonerated of the charge of misconduct; especially when it does not amount to double jeopardy. Therefore, even if the petitioners have been acquitted of the criminal charge as a result of the compromise even then they can be proceeded against in a domestic enquiry and can be punished if they are found guilty of the misconduct. Thus, I am of the view that both the arguments which have been raised by the representative of the petitioners do not help the petitioners in any manner.

9. The representative of the petitioners has also argued that even if the petitioners are held guilty of the misconduct, the penalty in question is not justified and same

be reduced under Section 11-A of the Industrial Disputes Act, 1947. I have considered the said argument. Taking into consideration the entire facts and circumstances of the case and the nature and magnitude of the misconduct, I am of the view that there is no justification for reduction of the penalty in question. As such, this argument of the representative of the petitioners also does not help the petitioners. Accordingly, I come to the conclusion that the respondent has proved that the termination of the petitioners is legal and valid. As such this issue is decided in favour of the respondent.

10. Issue No. 3

Since the respondent has proved Issue No. 2, this issue does not arise for decision and the same becomes redundant.

RELIEF :

11. As a result of my findings on the above mentioned issues, I hold that the petitioners are guilty of the misconduct, in question and they have rightly been penalized. Therefore the termination of all the four petitioners is legal and justified and the petitioners are not entitled to any relief. Accordingly all the references are answered against the petitioners and the same stand disposed of. A copy of this award be placed on the file of each reference case. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication in the Himachal Pradesh Rajpatra. A copy of each of these awards be supplied to the parties free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 16th November, 1994 in the presence of the parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. : 75 of 1989

Instituted on : 24-8-1989

Decided on : 26-11-1994

Sunil Kumar c/o Shri A. K. Sharma, Pole Factory,
Parwanoo, District Solan.

... Petitioner.

Versus

M/s Jai Mata Rolled Glass (P) Ltd., Village Tipra,
Barotiwala, District Solan, Himachal Pradesh

... Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri A. K. Sharma, A. R.

For respondent : Shri V. K. Gupta, A.R.

AWARD

Through this reference, the State Government has referred the dispute with respect to the termination of the services of Shri Sunil Kumar, hereinafter referred to as 'petitioner' for determination by this Court.

2 The case of the petitioner is that he was employed by M/s Jai Mata Rolled Glass (P) Ltd., Barotiwala, District Solan, hereinafter referred to as 'respondent', as Supervisor on 11-11-1986 and thereafter, he worked as Supervisor continuously till 24-2-1988, when his services were terminated without any notice and compensation. Thus the petitioner has alleged that his termination is illegal and he be reinstated with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that on 24-2-1988, the petitioner was given notice of termination, but, he did not accept the same and thereafter, he left the factory of the respondent and did not turn up. Thus, the respondent has stated that the petitioner has abandoned the services himself.

4. On the aforesaid pleadings of the parties, following issues arose for decision :—

1. Whether the termination of the petitioner is illegal and unjustified ? If so, to what relief, the petitioner is entitled to ? OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the above mentioned issues are as under.

FINDINGS

Issue No. : 1 Yes

Relief : Termination set aside. Petitioner reinstated with back wages.

REASONS FOR DECISION

Issue No. 1

6. In order to determine the question as to whether the termination of the petitioner is illegal and unjustified the present case has to be examined in the light of the provisions of Section 25-F of the Industrial Disputes Act, 1947 because it is the said section of law which deals with the termination cases like the present one. Section 25-F of the Industrial Disputes Act, 1947 provides that no workman, who has rendered one year continuous service, shall be terminated except after the expiry of thirty days notice or in lieu of notice, he is paid one month wages. Apart from this, it is provided in the said section of law that a workman shall also be paid retrenchment compensation which shall be equivalent to fifteen days average wages in respect of every completed year of service. The term 'one year continuous service' has been defined in section 25-B of the Industrial Disputes Act, 1947. It provides that a workman who has actually worked for 240 days during the calendar year, shall be deemed to have completed one year continuous service. Thus, before a workman becomes entitled to the protection of Section 25-F supra, he has to prove that he had worked for 240 days during the calendar year preceding the date of his termination. The provisions of Section 25-F of the Industrial Disputes Act, 1947 are mandatory and violation thereof would render the termination illegal.

7. Adverting to the facts and circumstances of the case and the evidence on record, it may be stated that the petitioner Shri Sunil Kumar was employed by the respondent in the year, 1986 and since then, he was continuously in service of the respondent till 24-2-1988. Thus, it can straight-away be held that the petitioner had rendered one year continuous service before 24-2-1988. As such, the petitioner is entitled to the protection of Section 25-F of the Industrial Disputes Act, 1947. Admittedly, in the case in hand, the respondent has not complied with the provisions of Section 25-F supra because neither the respondent has proved that the services of the petitioner were terminated after the expiry of thirty days notice nor wages for one month were paid by the respondent to the petitioner in lieu of such notice. Similarly, the respondent has not proved that retrenchment compensation was paid to the petitioner. The plea of the respondent that the petitioner had abandoned the services himself, is barren of substance because there is no evidence on record in support of the said plea. Moreover, the case of the res-

pondent is that it had terminated the services of the petitioner with effect from 24-2-1988, but, the petitioner had declined to accept the service of notice and one month notice pay. However, it remains a fact that the respondent had not made any efforts, at all, to remit the amount of one month wages to the petitioner in case the petitioner had actually left the respondent office on 24-2-1988, nor compensation, if any, was ever paid to the petitioner. In fact, the plea of the petitioner that after 24-2-1988, he was not allowed by the respondent to enter the gate of the factory of the respondent appears to be quite plausible and convincing. Therefore, it can safely be held that the respondent had terminated the services of the petitioner without complying with the provisions of Section 25-F of the Industrial Disputes Act, 1947 because under the said section of law, the respondent was under legal obligation either to pay one month wages to the petitioner in case his services were terminated forthwith w.e.f. 24-2-1988 or to serve thirty days notice on the petitioner. Apart from this, the respondent was under legal obligation to pay the retrenchment compensation to the petitioner at the time of termination. Admittedly, the respondent had not made any efforts, at all, to comply with the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. Therefore, I come to the conclusion that the termination of the petitioner is illegal and unjustified and the petitioner is entitled to re-instatement.

8. During the course of arguments, an attempt has been made by the representative of the respondent to show that the petitioner is gainfully employed in Punjab State Small Industries and Export Corporation, Chandigarh in support of this plea of the respondent, some evidence has also been led. However, it remains a fact that no documentary proof has been adduced to the effect that the petitioner is actually employed in a gainful manner in Punjab State Small Industrial Export Corporation, Chandigarh. Thus, I hold that the said plea of the respondent has not been proved so as to defeat the claim of the petitioner on this score.

9. For the reasons stated above, I come to the conclusion that the petitioner has proved this issue. Accordingly this issue is decided in favour of the petitioner.

RELIEF

10. As a result of my findings on the above mentioned issue, I hold that the termination of the petitioner is illegal and unjustified and as such, the same is set-aside and the petitioner is ordered to be re-instated with back wages, which are assessed at Rs. 15,000 (Fifteen thousand). As such, the reference is answered in favour of the petitioner. Accordingly, the reference stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication. A copy of this award be supplied to each of the parties, free of cost, if applied for. The parties be informed accordingly. The file after its completion be consigned to the record room.

Announced in the Open Court today the 26th November, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla, Camp
Chamba

Reference No. : 84 of 1992

Instituted on : 5-12-1992

Decided on : 5-1-1995

Mohan Lal Sharma, House No. B-64/163, Near

Krishna Mandir, Dhangu Road, Pathankot

.. Petitioner.

Versus.

Executive Director, Weston Electronics Limited,
Weston House, Okhla Industrial Estate, Delhi.

.. Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : In person

For respondent : Sh. M. A. Siddiqui, AR

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of the services of Shri Mohan Lal, hereinafter referred to as 'petitioner' for determination, by this Court.

2. The case of the petitioner is that on 27-5-1985, he was employed as Assistant Technician by the Weston Electronics Ltd, Okhla, New Delhi, hereinafter referred to as 'respondent' and thereafter, he worked continuously till 28-5-1991 when his services were terminated without any notice and compensation. The petitioner has thus, stated that his termination is illegal and as such, the same be set-aside and he be re-instated with back wages.

3. The respondent has contested the claim aforesaid of the petitioner on the ground that on 9-5-1991, the petitioner had been transferred from Dharamshala to Bombay, but, instead of proceeding to Bombay, he remained absent from duties with effect from 14-5-1991 and subsequently, vide order dated 28-5-1991, his name was removed from the rolls of the company. Thus, it is stated that the petitioner is not entitled to any relief.

4. On the basis of the aforesaid pleadings of the parties, following issues were framed by my learned predecessor :-

1. Whether the termination of the petitioner is illegal and unjustified, as alleged ? OPP.

2. Relief.

5. I have heard the petitioner and the representative of the respondent and have gone through the record. For the reasons to be recorded, hereinafter, my findings on the aforesaid issues are as under :-

FINDINGS

Issue No. 1 : Yes.

Relief : Reference answered in favour of the petitioner.

REASONS FOR DECISION

Issue No. 1

6. There is no denying the fact that the respondent is an industry and consequently, the petitioner is a workman. Therefore, the case of the petitioner has to be examined in the light of the provisions of Industrial Disputes Act, 1947. It is admitted case of the parties that the petitioner was a permanent employee of the Company. The case of the respondent is that since the petitioner had absented himself after he was transferred from Dharamshala to Bombay, he had lost his lien and as such, he was removed from service. However, it remains a fact that the respondent had not charge-sheeted the petitioner for his absence from duty nor any enquiry was held. Thus,

the petitioner has not been removed from service as a result of any penalty. Under these circumstances, it can safely be held that the termination of the petitioner, is not as a result of penalty, but, it is a simpliciter termination, which amounts to retrenchment, under the Industrial Disputes Act, 1947, a workman can be terminated either by way of retrenchment after complying with the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947 or he can be terminated as a result of penalty which can be imposed only after domestic enquiry is held against him. The Industrial Disputes Act, 1947 does not recognize any other type of termination. The case of the petitioner is that during the period from 14-5-1991 to 16-7-1991, he remained admitted in the District Hospital, Dharamshala and to this effect, he had sent an intimation by way of application for leave and subsequently, when he was discharged from the hospital, he had submitted necessary medical certificate in proof of his illness. However, the request of the petitioner for grant of leave on medical ground was not considered and instead his services were terminated arbitrarily. In support of his plea to the effect that he remained in the hospital during the period from 14-5-1991 to 16-7-1991, the petitioner has examined himself as a witness and has placed on record Ex. PC, which is a copy of the medical certificate issued by the Medical Officer, District Hospital, Dharamshala. The perusal of the statement of the petitioner coupled with the contents of Ex. PC would clearly go to show that the petitioner remained ill during the period from 14-5-1991 to 16-7-1991. On the other hand, the respondent has not led any evidence at all so as to rebut the evidence aforesaid of the petitioner. Shri M. A. Siddiqui representative of the respondent had made a statement that no evidence was to be led on behalf of the respondent. Further, the perusal of Ex. PB, which is a copy of the termination order of the petitioner would go to show that the petitioner was terminated on 28-5-1991 because he was absent from duty w.e.f. 14-5-1991. Apparently, this termination order is contrary to the provisions of the Industrial Disputes Act, 1947 because neither it has been issued after complying with the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947, nor it has been issued by way of penalty after holding an enquiry to the effect that the petitioner was actually absent from duty and he was not ill. Admittedly, the petitioner was a permanent employee of the respondent since 1986 and his services could not have been terminated in the manner the respondent has dispensed with the same. Therefore, the termination of the petitioner is illegal because neither the same has been made after complying with the mandatory provisions of the Section 25-F of the Industrial Disputes Act, 1947 because no notice, pay and compensation have been paid to the petitioner nor the termination of the petitioner has been made by way of penalty because no enquiry was held against the petitioner before the petitioner was terminated. The principles of natural justice require that the petitioner should have been afforded an opportunity to explain as to why he could not attend his duty. Manifestly this opportunity has not been afforded to the petitioner before he was terminated. Therefore, after examining the case of the petitioner from any angle, it can clearly be held that the termination of the petitioner is illegal. As such, I hold that the termination of the petitioner is illegal and unjustified. Thus, the petitioner has proved this issue. Accordingly, this issue is decided in favour of the petitioner.

RELIEF

As a result of my findings on issue No. 1 supra I hold that the termination of the petitioner is illegal and unjustified and as such, the same is set-aside and the petitioner is ordered to be re-instated with full back wages and all other consequential benefits. Therefore, the reference is answered in favour of the petitioner. As such, the reference stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication. A copy of this award be supplied to each of the parties, free of cost, if applied for. This be consigned to record room after completion.

Announced in the Open Court at Chamba today the 5th January, 1995 in the presence of the parties.

Seal,

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla
Camp Chamba.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla Camp
Paonta

Reference No. : 60 of 1993

Instituted on : 30-4-1993

Decided on : 20-1-1995

Shri Bhola Ram s/o Shri Faquir Chand,
VPO Kollar, Tehsil Paonta, District Sirmaur
.. Petitioner.

Versus

Executive Engineer, I & PH Division, Paonta
Sahib, District Sirmaur .. Respondent.

Reference under: Section 10 of the Industrial Disputes
Act, 1947.

For petitioner : Shri A. K. Gupta, Advocate
For respondent : Shri Gulab Singh, AR

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of Shri Bhola Ram, hereinafter referred to as 'petitioner', for determination, by this Court.

2. The case of the petitioner is that he was employed as beldar on daily wages by the respondent in 1986 and subsequently, he had been made helper of the Pump Operator. It is alleged that on 27-5-1991, the petitioner was terminated without any notice and enquiry. Thereafter, the petitioner is stated to have approached the Himachal Pradesh Administrative Tribunal, which had granted stay in favour of the petitioner and as such, he was taken back as helper of the Pump Operator and he worked as helper till 28-8-1992, when his services were dispensed with, again after the stay was vacated by the Hon'ble Administrative Tribunal. As such, the petitioner has alleged that his termination is illegal and the same be set-aside and he be re-instated with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the provisions of Section 25-F of the Industrial Disputes Act, 1947 do not apply in this case because services of the petitioner have been terminated because he had been negligent in discharging his duties. It is also alleged that the petitioner had been guilty of misconduct because he had assaulted and manhandled his co-workers.

4. On the pleadings of the parties, following issues were framed :—

1. Whether the termination of the petitioner Shri Bhola Ram is illegal and unjustified? If so, to what relief the petitioner is entitled to
OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be

recorded hereinafter, my findings on the aforesaid issues are as under.

FINDINGS

Issue No : 1. Yes

Relief : Reference answered in favour of the petitioner.

REASONS FOR DECISION

Issue No. 1

6. It is admitted case of the respondent that while dispensing with the services of the petitioner, the provisions of Section 25-F of the Industrial Disputes Act, 1947 have not been complied with. To this effect, the respondent has assigned the reasons that since the services of the petitioner were terminated because he had been negligent in his duties and was guilty of misconduct, there was no necessity to comply with the provisions of Section 25-F of the Industrial Disputes Act, 1947. However, the petitioner has denied that he was guilty of any such misconduct. Further, it remains a fact that no domestic enquiry was held with respect to any charges of misconduct or negligence against the petitioner. So much so, no charge-sheet was served upon the petitioner in respect of any of these charges. The representative of the respondent has stated during the course of arguments that certain statements of the co-workers of the petitioner were recorded in respect of the misconduct of the petitioner but, it remains a fact that the petitioner was not allowed any opportunity to cross-examine the said witnesses nor any specific charge-sheet in respect of the alleged allegations of misconduct was served upon the petitioner. The principles of natural justice require that in case there were any allegations of misconduct and negligence against the petitioner, then an enquiry should have been held against him and the penalty of termination should have been passed only after he had been held guilty of misconduct. Therefore, the manner in which the respondent has dispensed with services of the petitioner is clearly violative of the principles of natural justice. Thus, it can straight-away be held that neither the termination of the petitioner has been done as a result of penalty nor the same has been done after complying with the mandatory provisions of section 25-F of the Industrial Disputes Act, 1947. Therefore, the termination of the petitioner is illegal and unjustified. As such, the petitioner has proved this issue. Accordingly this issue is decided in favour of the petitioner.

RELIEF

7. As a result of my findings on Issue No. 1 supra, I held that the termination of the petitioner is illegal and unjustified and as such, the same is set-aside and the petitioner is ordered to be re-instated with back wages which are assessed at Rs. 1,000/-. As such, the reference is answered in favour of the petitioner. Accordingly the reference stand disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the H. P. Rajpatra in accordance with law. A copy of this award be supplied to the parties, free of cost, if applied for. This be consigned to record room after its completion.

Announced in the Open Court at Paonta today the 20th January, 1995 in the presence of the parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, H. P., Shimla
Camp Paonta.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla
Camp Paonta

Reference No. : 50 of 1993
Instituted on : 22-4-1993
Decided on : 20-1-1995

Shri Dhanbir Singh s/o Shri Chuhru Singh, Village
Jhal Haripur, Tehsil Paonta, District Sirmour

.. Petitioner.

Versus

Conservator, Nahan Circle, Nahan ... Respondent.

Reference under Section 10 of the Industrial Disputes
Act, 1947.

For petitioner: Shri A.K. Gupta, Advocate

For respondent: Shri Krishan Datt, A. R.

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of Shri Dhanbir Singh, hereinafter referred to as 'petitioner' for determination by this Court.

2. The case of the petitioners that he was employed as beldar on daily wages by the respondent in the year 1978 and thereafter, he had worked continuously till 10-8-1988 when his services were terminated without any notice and compensation. Thus, the petitioner has stated that his termination is illegal and he be re-instated with full back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner had abandoned the job himself and he had not been terminated. Thus, it is stated that the petitioner is not entitled to any relief.

4. From the pleadings of the parties, following issues were framed :-

1. Whether the termination of the services of Shri Dhanbir Singh is illegal and unjustified? If so, to what relief the petitioner is entitled to? OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :-

FINDINGS

Issue No. 1 : Yes

Relief. : Reference answered in favour of the petitioner.

REASONS FOR DECISION

6. Issue No. 1

The scrutiny of the evidence on record would go to show that the petitioner had worked for 328 days during the period from 11-8-1987 to 31-8-1988. According to the terms of the reference, in question, the petitioner is alleged to have been terminate with effect from 10-8-1988. In order to determine the question as to whether the termination of the petitioner is illegal or not the case of the petitioner has to be examined in the light of the relevant provisions of law. Section 25-F of the Industrial Disputes Act, 1947 deals with the termination cases like the present one. This section provides that no workman

who has rendered one year continuous service shall be terminated except after the expiry of thirty days notice or he is paid wages of one month in lieu of such notice. A part from this, it is provided in the said section of law that such workman shall also be paid compensation equivalent to fifteen days average wages in respect of every completed year of service. The term 'one year continuous service' is defined in section 25-B of the Industrial Disputes Act, 1947, which provides that workman is deemed to have rendered one year continuous service, if he had worked for 240 days during the calendar year. The provisions of section 25-F supra are mandatory and violation thereof would render the termination illegal. Thus, in order to bring a particular case within the ambit of section 25-F supra, a workman has to show that he had worked for 240 days during the period of twelve calendar months preceding the date of his termination. In the case in hand, it is clear from the evidence on record that the petitioner had worked for more than 240 days during the period of twelve calendar months preceding the date of termination. Therefore, the petitioner is entitled to the protection of section 25-F of the Industrial Disputes Act, 1947. Admittedly, the respondent had not complied with the provisions of section 25-F supra while dispensing with the services of the petitioner. However, the respondent has failed to prove that the petitioner had abandoned the services himself because whatsoever, evidence has been led that is not sufficient to prove this plea. Therefore it can straight-away be held that the termination of the petitioner is illegal and unjustified. As such, the petitioner has proved this issue. Accordingly, this issue is decided in favour of the petitioner.

RELIEF

7. As a result of my findings on issue No. 1 supra, I hold that the termination of the petitioner is illegal and unjustified and as such, the same is set-aside and the petitioner is ordered to be re-instated with back wages which are assessed at Rs. 2,000/-. As such, the reference is answered in favour of the petitioner. Accordingly the reference stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. This be consigned to record room after its completion.

Announced in the Open Court today the 20th January, 1995 at Paonta in the presence of the parties.

Seal.

B. S. CHOUHAN,

Presiding Officer,
Labour Court, H. P., Shimla
Camp Paonta.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla Camp
Paonta

Reference No. : 50 of 1993

Instituted on : 22-4-1993

Decided on : 20-1-1995

Shri Surjan Singh s/o Shri Gaje Singh, Village Charanwala, P. O. Haripur, Tehsil Paonta, District Sirmour

.. Petitioner.

Versus

Conservator of Forests, Nahan Circle, Nahan, District Sirmour

.. Respondent.

Reference under Section 10 of the industrial disputes Act, 1947 .

For petitioner: Shri A. K. Gupta, Advocate
For respondent: Shri Krishan Datt, AR

AWARD

Through this reference, the State Government has referred the dispute with respect to the termination of Shri Surjan Singh, hereinafter referred to as 'petitioner' for determination by this Court.

2. The case of the petitioner is that he was employed as beldar on daily wages by the respondent in Kollar range in 1978 and thereafter, he worked continuously till 1988 when he was terminated without any notice and compensation. The petitioner has, thus, alleged that his termination is illegal and the same be set-aside and he be reinstated with full back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner was not terminated, but he had left the job himself. It is further stated that the petitioner was employed in April, 1984 and not in 1978 and thereafter he had worked till 31-8-1989. It is also stated that the petitioner was irregular in his attendance. Thus, it is stated that the petitioner is not entitled to any relief.

4. On the aforesaid pleadings of the parties, following issues were framed :-

1. Whether the termination of the petitioner Shri Surjan Singh is illegal and unjustified? If so, to what relief the petitioner is entitled to? OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record, for the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under.

FINDINGS

Issue No. 1 : Yes

Relief : Reference answered in favour of the petitioner.

REASONS FOR DECISION

6. Issue No. 1

6. The evidence of the respondent would go to show that the petitioner had worked till 31-8-1989. However, it remains a fact that in the reference, in question, the petitioner is alleged to have been terminated with effect from 10-8-1988. Therefore, the relevant date for determination of the dispute, in question, is 10-8-1988. In order to examine the case of the petitioner in the light of the relevant provisions of law, it has first to be seen as to whether the petitioner had worked for 240 days during the period of twelve calendar months preceding the date of his termination because before a workman can be allowed to invoke the provisions of section 25-F of the Industrial Disputes Act, 1947, which deals with the termination cases like the present one, he has to establish that he had rendered one year continuous services. The term 'one year continuous service' is defined in Section 25-B of the Industrial Disputes Act, 1947, which provides that a workman is deemed to have rendered one year continuous service, if he had worked for 240 days during the period of a calendar year. The statement of Shri Kartar Singh, Range Officer (RW-1) would go to show that the petitioner had worked for 307 days during the period from 10-1-1987 to 10-1-1988. Therefore, it can clearly be held that the petitioner had worked for more than 240 days during the period of 12 calendar months preceding the date of his termination. As such, the petitioner is entitled to the protection of Section 25-F of the Industrial Disputes Act, 1947 provides that no workman who has rendered one year continuous service shall be terminated

except after the expiry of thirty days notice or in lieu of such notice, he shall be paid one month wages. Apart from this such workman shall also be paid compensation equivalent to fifteen days average wages in respect of every completed year of service. The provisions of the said section of law are mandatory and violation thereof would render the termination illegal. Thus, the employer has to comply with the provisions of Section 25-F of the Industrial Disputes Act, 1947 before dispensing with the services of a workman who has worked for 240 days during the period of twelve calendar months preceding the date of his termination. In the case in hand, it is admitted case of the respondent that the provisions of Section 25-F of the Industrial Disputes Act, 1947 have not been complied with. However, the respondent has failed to prove that the petitioner had abandoned the job himself. Therefore, it can straight-away be held that the termination of the petitioner is illegal and unjustified because the same has been made in violation of the mandatory provisions of Section 25-F of the Industrial Disputes Act, 1947. As such, the petitioner has proved this issue. Accordingly, this issue is decided in favour of the petitioner.

RELIEF

As a result of my finding on Issue No. 1 supra, I hold that the termination of the petitioner is illegal and the same is set-aside and the petitioner is ordered to be re-instated with back wages, which are assessed at Rs. 2000/-. As such, the reference is answered in favour of the petitioner. Accordingly, the reference stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication. A copy of this award be supplied to each of the parties, free of cost, if applied for. This be consigned to the record room after its completion.

Announced in the Open Court at Paonta today the 20th January, 1995 in the presence of the parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, H.P., Shimla,
Camp at Paonta.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla Camp at Paonta

Reference No : 112 of 1992

Instituted No : 12-11-1992

Decided on : 20-1-1995

Shri Prem Singh s/o Shri Watan Singh, V.P.O.
Kotari, Tehsil Paonta, District Sirmaur, H.P.
.. Petitioner.

Versus

Divisional Manager, Him Kasht, Sales Division
Depot, Mantaruwala, Tehsil Paonta, District Sirmaur.
.. Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner: Shri A. K. Gupta, Advocate
Shri K. Oberoi, AR

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of Shri Prem Singh, hereinafter referred to as 'petitioner' for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent as Chowkidar on daily wages in 1986

and thereafter, he worked continuously till 21-11-1990, on which date, he was terminated without any notice and compensation. Thus, the petitioner has stated that his termination is illegal and unjustified and the same be set-aside at he be re-instated with full back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner was not terminated, but he had abandoned the job himself.

4. From the pleadings of the parties following issues were framed:—

1. Whether the termination of the petitioner Shri Prem Singh is illegal and unjustified ? If so, to what relief, the petitioner is entitled to ? OPP.
2. Whether the petitioner had abandoned the job himself ? OPR.
3. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :—

FINDINGS :

Issue No. 1	:	Yes
Issue No. 2	:	No
Relief	:	Reference answered in favour of the petitioner.

REASONS FOR DECISION

Issue No. 1 :

6. The evidence on record would go to show that during the period from 21-11-1989 to 21-11-1990, the petitioner had worked for 350 days. Section 25-F of the Industrial Disputes Act, 1947 deals with the termination cases like the present one. This section provides that no workman, who has rendered one year continuous service, shall be terminated except after the expiry of thirty days notice or in lieu of notice, he shall be paid one month wages. Apart from this, it is provided in the said section of law that a workman shall also be paid retrenchment compensation which shall be equivalent to fifteen days average wages in respect of every completed year of service. The said provisions of Section 25-F supra are mandatory and violation thereof would render the termination illegal. In the case in hand, it is admitted case of the respondent that the said provisions of Section 25-F of the Industrial Disputes Act, 1947 were not complied with, while dispensing with the services of the petitioner. The term 'one year continuous service' has been defined in Section 25-B of the Industrial Disputes Act, 1947. It provides that a workman who has actually worked for 240 days during a calendar year, shall be deemed to have completed one year continuous service. It would, thus, be evident from the said legal position that for obtaining relief under section 25-F of the Industrial Disputes Act, 1947, the aggrieved workman has to prove that he has worked for 240 days during the period of twelve calendar months preceding the date of his termination. In the case in hand, it is clear from the evidence on record that the petitioner had worked for 240 days during the period of twelve calendar months preceding the date of his termination. Thus, the petitioner is entitled to the protection of Section 25-F of the Industrial Disputes Act, 1947. It is admitted case of the respondent that the compliance of Section 25-F of the Industrial Disputes Act, 1947 has not been made in this case. There is no denying the fact that the provisions of Section 25-F of the Industrial Disputes Act, 1947 are mandatory and violation thereof would render the termination illegal. However, the respondent has failed to prove that the petitioner had abandoned the job himself. Thus, I hold that the termination of the petitioner is illegal and

unjustified. As such, the petitioner has proved this issue. Accordingly, this issue is decided in favour of the petitioner.

Issue No. 2

7. The respondent has failed to prove that the petitioner had abandoned the job himself because whatsoever evidence has been led by the respondent in support of this plea, the same is not sufficient to prove that the petitioner had abandoned the job himself. As such, I hold that the respondent has failed to prove this issue and accordingly, this issue is decided against the respondent.

RELIEF

8. As a result of my findings on the above mentioned issues, I hold that the termination of the petitioner is illegal and unjustified and as such the same is set-aside and the petitioner is ordered to be re-instated with back wages, which are assessed at Rs. 2,000/. As such, the reference is answered in favour of the petitioner. Accordingly, the reference stands answered. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication in the H.P. Rajpatra. A copy of this award be supplied to each of the parties, free of cost, if applied for. This be consigned to record room, after its completion.

Announced in the Open Court today the 20th January, 1995 at Paonta, in the presence of the parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, H.P., Shimla,
Camp Paonta.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. : 28 of 1994

Instituted on : 14-4-1994

Decided on : 15-12-1994

Shri Ram Pal s/o Shri Daulat Ram, Village Ambwala,
Tehsil Nalagarh, District Solan .. Petitioner.

Versus

1. M/s B. C. C. Fuba India Ltd., Swarghat Road,
Nalagarh, District Solan. 2. The General Manager,
B.C.C. Fuba India Ltd., Swarghat Road, Nalagarh,
District Solan. .. Respondents.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner : In Person

For respondent : Shri R. S. Chauhan, AR

AWARD

Through this reference, the state Government has referred the dispute regarding the termination of the services of Shri Ram Pal, hereinafter referred to as 'petitioner', for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent as Time-keeper on 27-8-1991 and thereafter, he served the respondent as Time-keeper till 22-2-1993, on which date his services were terminated by the respondent. It is alleged that the termination is illegal and the same be set-aside and he be re-instated with full back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner was on probation and since his performance was not satisfactory, his services were terminated. Thus, it is stated that the petitioner is not entitled to any relief.

4. On the aforesaid pleadings of the parties, following issues were framed :—

1. Whether the termination of the petitioner Shri Ram Pal is illegal and unjustified? If so, to what relief the petitioner is entitled to ?
OPP.

2. Relief.

5. I have heard the petitioner and representative of the respondent and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :—

FINDINGS

Issue No. 1. Yes.

Relief: Termination set-aside. Petitioner re-instated with full back wages.

REASONS FOR DECISIONS

Issue No. 1:

6. The scrutiny of the evidence on record would make it clear that on 27-8-1991, the petitioner was appointed on probation for six months. Thereafter, the petitioner worked continuously till 22-2-1993 when his services were terminated. It is also clear from the evidence on record that the probation period of the petitioner was not extended after the expiry of six months. Further more, the evidence on record would also go to show that after completion of one year service, the petitioner was allowed annual increment. It is admitted case of the respondent that no compensation was paid to the petitioner at the time of his termination. However, it is stated that the petitioner had declined to accept the payment of one month wages at the time of termination. Thus, it is clear that compliance of section 25 F of the Industrial Disputes Act, 1947, which deals with termination cases like the present one has not been made. The provisions of section 25 F of the Industrial Disputes Act, 1947 are mandatory and non compliance thereof would render the termination illegal. In order to bring a particular case within the ambit of section 25 F of the Industrial Disputes Act, 1947, the aggrieved workman has to prove that he had rendered one year continuous service prior to the date of his termination. Section 25 B of the Industrial Disputes Act, 1947 defines the term, "one year continuous service". It provides that if a workman has actually worked for 240 days during a calendar year, he shall be deemed to have rendered one year continuous service. It is admitted case of the respondent that the petitioner had worked for more than 240 days during the calendar year preceding the date of his termination. Therefore, the petitioner is entitled to the benefit of section 25 F of the Industrial Disputes Act, 1947. Evidently, neither the petitioner was on probation at the time of his termination because his probation had not been extended nor the respondent had complied with the provisions of section 25-F *supra*. Therefore, the petitioner would not have been discharged from service for want of satisfactory performance because he was not on probation at the time of his termination. As such, it can safely be held that the petitioner has been terminated in violation of the mandatory provisions of the Industrial Disputes Act, 1947. This being so, the termination of the petitioner is illegal and unjustified. As such, the petitioner has proved this issue. Accordingly, this issue is decided in favour of the petitioner.

Relief:

7. Keeping my findings on the aforesaid issue in view, I hold that the termination of the petitioner is illegal and as such same is set aside and the petitioner is ordered to be re-instated as time keeper with full back wages. The reference is answered accordingly in favour of the petitioner and the same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh,

Shimla-2 for its publication in H. P. Rajpatra in accordance with law. A copy of this award be supplied to the parties, free of cost, if applied for. The file after its completion be consigned to record room.

Announced in the open court today the 15th December, 1994 in the presence of the parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, H. P. Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. 63 of 1992

Instituted on : 4-1-1993

Decided on : 4-8-1994

Shri Pritam Singh s/o Shri Gaje Singh, V. P. O. Hari-pur dhar, Tehsil Paonta, District Sirmour ...Petitioner.

Versus

Executive Engineer, H. P. P. W. D. (B&R) Division,
Paonta-Sahib, District Sirmour ...Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For Petitioner: Shri A. K. Gupta, Advocate.

For Respondent: Shri R. L. S. Yadav, AR.

AWARD

The State Government has referred the dispute regarding the termination of the services of the petitioner Shri Pritam Singh, for adjudication by this Court.

2. The case of the petitioner is that he was employed as beldar by the respondent in 1986 and thereafter, he worked continuously till 31-7-1990, on which date, he is alleged to have been terminated without any notice, wages and compensation. Thus, it is stated that the termination, in question, is illegal and same be set-aside and the petitioner be re-instated with full back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner had abandoned the job himself. It is also stated that the petitioner had not worked for 240 days in any of the calendar years and as such, the petitioner does not have any claim for re-instatement nor he is entitled to any other relief.

4. From the pleadings of the parties, following issues were framed :—

1. Whether the termination of the services of the petitioner Shri Pritam Singh is illegal and unjustified, if so, to what relief, the petitioner is entitled to ?
OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :—

FINDINGS

Issue No. 1: Yes.

Relief: Reference answered in favour of the petitioner.

REASONS FOR DECISIONS

Issue No. 1:

6. The evidence on record would go to show that the petitioner had worked for 244½ days during twelve calendar months preceding the date of his termination. According to the provisions of section 25-F of the Industrial Disputes Act, 1947, no workman, who has rendered not less than one year continuous service, can be terminated unless he is served with a notice of thirty days or is paid wages in lieu thereof. Apart from this, such workman has to be paid compensation according to the number of years he has served. The said provisions of section 25-F *supra* are mandatory and violation thereof would render the termination illegal. There is no denying the fact that in the case in hand, the petitioner had worked for more than 240 days during twelve calendar months preceding the date of this termination and as such, it can clearly be held that the petitioner had rendered one year continuous service prior to his termination. Thus, the petitioner is entitled to the protection of section 25-F of the Industrial Disputes Act, 1947. Admittedly, the case in hand, the respondent has not complied with the provisions of section 25-F of the Industrial Disputes Act, 1947 at all, now it has been proved that the petitioner had abandoned the job himself. Thus, it can straightaway be held that the respondent has violated the mandatory provisions of section 25-F *supra*. Therefore, the termination, in question, is illegal and unjustified. As such, the petitioner has proved this issue. Accordingly, this issue is decided in favour of the petitioner.

Relief :

7. Keeping my findings on the aforesaid issue in view, I hold that the termination of the services of the petitioner Shri Pritam Singh is illegal and unjustified and as such, the same is set-aside and the petitioner is ordered to be re-instated with back wages, which are assessed at Rs. 5,000/-. As such, the reference is answered in favour of the petitioner. A copy of this award is sent to the Government of Himachal Pradesh, Shimla-2 for its due publications in the H. P. Rajpatra in accordance with Law. A copy of this award is supplied to the parties, free of cost. If applied for. The file after its completion be consigned to the record room.

Announced in the open Court today the 4th August, 1994.

Seal.

B. S. CHOHAN,
Presiding Officer,
Labour Court, H. P., Shimla.

In the Court of Shri B. S. Chohan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No: 10 of 1994

Instituted on : 1-2-1994.

Decided on : 14-11-1994

Shri Bakshi Ram s/o Shri Bhagat Ram, Village Chhajoti,
P. O. Jegwin, Tehsil & District Bilaspur ..Petitioner.

Versus

Executive Engineer, H. P. P. W. D., Ghumarwin
Division, Ghumarwin, District Bilaspur ..Respondent.

Reference under section 10 of the Industrial Disputes
Act, 1947.

For petitioner: Shri Sunder Singh, AR.

For respondent: Shri S. L. Panwar, AR.

AWARD

Through this reference, the State Government has

referred the dispute with respect to the termination of the services of the petitioner Shri Bakshi Ram, for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent on 3-11-1978 as beldar on daily wages and thereafter, he worked continuously as beldar till 23-9-1989. It is alleged that on 24-9-1989, the services of the petitioner were terminated without any notice and compensation and thereafter, the petitioner remained without job till 19-10-1992 and on 20-10-1992, he was re-employed by the respondent. It is stated that thereafter, the petitioner worked continuously till 31-3-1993 and on 1-4-1993, the services of the petitioner were again terminated without any notice and compensation. Thus, the petitioner has alleged that his termination is illegal and same be set-aside and be re-instated with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner has abandoned the job himself and he was not terminated. It is further stated that the petitioner had never worked for 240 days in any of the calendar years and as such, he is not entitled to any relief.

4. On the aforesaid pleadings of the parties, following issues were framed:—

1. Whether the termination of the petitioner Shri Bakshi Ram is illegal and unjustified? If so, to what relief the petitioner is entitled to. OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :—

FINDINGS

Issue No. 1. No.

Relief: Reference answered against the petitioner.

REASONS FOR DECISION

Issue No. 1:

6. The scrutiny of the evidence on record would make it clear that during the period from 21-10-1978 till 20-10-1989, the petitioner had not worked for 240 days in any of the calendar years. Similarly, during the period from 1-10-1992 to 31-3-1993, the petitioner had worked only for 148 days. This fact is evident from the details of working days which have been placed on record by the respondent. Even the petitioner in his cross examination has stated that he does not know if he has worked for 240 days in any of the calendar years right from 1978 onwards. Thus, it remains a fact that the petitioner has miserably failed to prove that he has worked at least for 240 days during the calendar year preceding the date of his alleged termination. Section 25 F of the Industrial Disputes Act, 1947 deals with the cases of retrenchment and termination which provides that no workman who has rendered one year continuous service shall be terminated except after the expiry of thirty days notice or in lieu of such notice, he shall be paid wages for one month. It is further provided in the said section of law that apart from notice or wages, such worker shall also be paid compensation equivalent to 15 days average wages for every completed year of service. The said provision of law is mandatory and violation thereof would render the termination illegal. Section 25 B of the Industrial Disputes Act, 1947 provides that if a worker has worked actually for 240 days in a calendar year, he would be deemed to have rendered one year continuous service. Evidently, in the case in hand, the petitioner has not worked for 240 days during the period of calendar

year preceding the date of his alleged termination. This being so, the petitioner is not entitled to the protection of Section 25-F *supra*. Therefore, I hold that the petitioner has failed to prove this issue. Accordingly, this issue is decided against the petitioner.

Relief :

7. As a result of my findings on issue No. 1 *supra*, I hold that the petitioner is not entitled to any relief. Accordingly the reference is decided against the petitioner and same stands disposed of. A copy of this award be sent to the Government of the Himachal Pradesh, Shimla for its publication. A copy of this award be supplied to the parties, free of cost, if applied for. The file after completion be consigned to record room.

Announced in the open Court today the 11th November, 1994 in the presence of parties.

Seal.

B. S. CHOHAN,
Presiding Officer,
Labour Court, H. P., Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. 86 of 1992

Instituted on : 1-12-1993

Decided on : 14-11-1994

Shri Nura s/o Shri Indu, Village Kheria, P. O. and
Tehsil and District Bilaspur, Himachal Pradesh.
Petitioner.

Versus

General Manager, Biroja and Terpene Factory,
Raghunathpura, Bilaspur
Respondent.

Reference under section 10 of the Industrial Disputes
Act, 1947.

For petitioner : Shri Sunder Singh. AR.

For respondent : Shri G. P. Verma. AR.

AWARD

Through this reference, the State Government has referred the dispute with respect to the termination of the services of the petitioner Shri Nura, for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent as chowkidar on daily wages in 1978 and thereafter, he worked continuously till 22-4-1992 on which date he was terminated by the respondent without any notice and compensation. Thus, the petitioner has alleged that his termination is illegal, and the same be set-aside.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner has abandoned the job himself. It is also stated that the petitioner has not worked for 240 days during the period, in question, and as such, he is entitled to any relief.

4. On the aforesaid pleadings of the parties, following issues were framed :—

1. Whether the termination of the petitioner is illegal and unjustified ? *OPP.*

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to

here recorded hereinafter, my findings on the aforesaid issues are as under :—

FINDINGS

Issue No. 1. No.

Relief. Reference answered against the petitioner.

REASONS FOR DECISION

Issue No. 1

6. The scrutiny of the evidence on record would make it evident that during the relevant period that is within the calendar year preceding the alleged date of termination, the petitioner has not worked for 240 days. Section 25-F of the Industrial Disputes Act, 1947 deals with the cases of termination like the present one. It provides that no workman who has rendered one year continuous service shall be terminated except after the expiry of thirty days notice or in lieu of such notice, he shall be paid wages for one month. It is further provided in the said section of law that apart from notice or wages, such worker shall also be paid compensation equivalent to 15 days average wages for every completed year of service. The said provision of law is mandatory and violation thereof would render the termination illegal. Section 25-B of the Industrial Disputes Act, 1947 provides that if a worker has worked for 240 days in a calendar year he shall be deemed to have rendered one year continuous service. Thus, in order to bring a case within the purview of section 25-F of the Industrial Disputes Act, 1947, aggrieved worker has first to prove that he has worked for 240 days during the calendar year preceding the date of alleged termination; failing which he shall not be entitled to any relief. In the case in hand, as already stated above, it is quite clear that the petitioner has miserably failed to prove that he has worked for 240 days during the relevant period. This being so, the petitioner is not entitled to the protection of section 25-F *supra*. Therefore, I held that the petitioner has failed to prove this issue. Accordingly, this issue is decided against the petitioner.

Relief :

7. As a result of my findings on issue No. 1 *supra*, I hold that the petitioner is not entitled to any relief. Accordingly, the reference is decided against the petitioner and the same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication. A copy of this award be supplied to the parties, free of cost, if applied for. The file after completion be consigned to the record room.

Announced in the open Court today the 11th November, 1994 in the presence of parties.

B. S. CHOCHAN,
Presiding Officer,
Labour Court, Himachal Pradesh,
Shimla.

Seal.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Industrial Tribunal, Himachal Pradesh, Shimla

Reference No. : 12 of 1993

Instituted on : 16-1-1993

Decided on : 31-10-1994

S. R. Forging Ltd. Workers Union Jharmajri
Barotiwalla
Petitioner.

Versus

M/s Management of M/s S. R. Forging Ltd., Jharmajri,

Barotiwala, Solan.

Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioners: Shri J. C. Bhardwaj, A. R.

For respondent : *Ex-parte*.

AWARD

Through this reference, the State Government has referred for determination the dispute, with respect to the demand of bonus by the workers of the respondent.

2. The case of the workers of the respondent factory is that the respondent factory had started production and sales in the year, 1985 and after completion of five years in 1990, the workers had become entitled to payment of bonus. It is stated that the respondent has failed to pay the amount of bonus to the workers despite the fact that there is a legal obligation upon the respondent to pay bonus to its workers. It is further stated that the workers has raised a demand in respect of the payment of the said bonus, but the management had failed to concede to the said demand and ultimately, the dispute concerning this demand has been referred by the State Government to this Court. Thus, the workers have stated that they are entitled to 20% bonus.

3. On the other hand, the respondent has contested the claim aforesaid of the workers on the ground that the establishment of the respondent had not completed five financial years following the counting years in which the employer had sold the goods which were manufactured in the respondent factory and as such the workers are not entitled to any bonus. It is also stated that the respondent has not earned any profit and as such, it is not liable to pay any bonus to its workers. Lastly, it is stated that the workers of the respondent-factory had gone on strike in the year, 1992 as result of which the factory had been closed and the same is still lying closed.

4. On the aforesaid pleadings of the parties, following issues framed:—

1. Whether the workers of the petitioner Union are entitled to 20% bonus? If so, from which date? OPP.

2. Relief.

5. However, after the case was fixed for evidence of the petitioner, Shri V. K. Gupta, representative of the respondent had failed to appear on 17-10-1994 and as such, the respondent was proceeded against *ex-parte*.

6. In support of their claim, the workers have led the *ex-parte* evidence and have examined Shri Om Parkash Sharma, who is general secretary of the Union of the workers. Shri Om Parkash Sharma, has stated that workers' union had served the management with a notice on 28-1-1992 for payment of 20% bonus, but the respondent had failed to concede to the said demand. He has explained that the respondent factory had started production and sales in the year 1985 and thereafter, it had completed five years production and sales in 1990. Thus, he has stated that the workers are entitled to bonus for the years 1990-91 and 1991-92.

7. I have heard Shri J. C. Bhardwaj, representative of the workers and have scrutinized the statement aforesaid of Shri Om Parkash Sharma. Under section 10 of the Payment of Bonus Act, 1965, there is statutory obligation upon every employer according to which he is liable to pay bonus @ 8.33% of the salary or wages to its workers per year respective of the fact as to whether the employer had earned profits during the relevant year or not. Thus, it is clear from the said provision of law that the respondent employer is under obligation to pay bonus @ 8.33% to its workers. Further, the evidence aforesaid of the workers is also clear to the effect that the factory of the Respondent had

started production and sales in the year, 1985 and after completion of five years, the workers were entitled to bonus. Therefore, the workers have proved that they are entitled to bonus at the rate of 8.33% per year for the years 1990-91 and 1991-92. However the workers have failed to prove that they are entitled to 20% bonus because neither they have led any evidence to this effect nor Shri J. C. Bhardwaj, representative of the workers has been able to show any law according to which the workers may be entitled to 20% bonus. Therefore, I hold that the petitioner/workers have proved the issue aforesaid to the extent that they are entitled to bonus at the rate of 8.33% only and not at the rate of 20%. As such, this issue is decided accordingly in favour of the petitioners and against the respondent.

Relief :

8. For the reasons stated above, I hold that the demand of the workers of M/s S. R. Forging Ltd., Jharmajri, Barotiwala with respect to payment of bonus at the rate of 8.33% is genuine and justified and they are entitled to bonus at the rate of 8.33% per annum for the years 1990-91 and 1991-92. As such, the reference is answered accordingly and the same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh for its publication. A copy of this award be supplied to the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the open Court today the 31st October, 1994.

Seal.

B. S. CHOUHAN

Presiding Officer.

Industrial Tribunal, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.
camp Nalagarh

Reference No. : 29 of 1991

Instituted on : 30-5-1991

Decided on : 7-11-1994

Bhangi Ram C/o Jeet Ram, Village Hakimpur, Post Office Kalka, District Ambala (Haryana) .. Petitioner.

Versus

Managing Director, Him Tube Ltd., Baddi, District Solan, Himachal Pradesh .. Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For Petitioner : In person.

For respondent: *Ex parte*.

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of the services of the petitioner for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent as Gardner (Mali) on 1-7-1985 on regular basis. Thereafter, the petitioner worked continuously as Mali till 1-7-1990. On 2-7-1990, the petitioner had proceeded on leave and thereafter, he remained on leave till 15-7-1990 and when he came back to join his duty on 16-7-1990, he was not allowed by Shri Gurdial Singh, Security Guard of the factory to enter the factory gate on the ground that Shri S. S. Parmar, Director (Commercial) of the respondent factory had ordered that the petitioner Shri Bhangi Ram should not be allowed to enter the factory gate. The petitioner tried his level best to resume his duty, but,

all in vain. He also submitted in writing to the union and the union had taken up the matter with the management, but, Shri S. S. Parmar, had informed the Union that the services of the petitioner were no longer required. Ultimately, the petitioner did not have any alternative, but, to raise a dispute before the Conciliation Officer concerned. Before the Conciliation Officer, the management declined to take back the petitioner. Thereafter, the present reference was made by the Government for determination of the question as to whether the termination of the petitioner Shri Bhangi Ram is illegal and unjustified and if so, to what relief the petitioner is entitled to. The petitioner has alleged that his termination is illegal because neither any notice was served upon him nor he was charge-sheeted. Similarly, it is stated that neither any enquiry was held against the petitioner nor he was paid any compensation by the respondent. Thus, the petitioner has stated that the termination be set aside and he be re-instated with full back wages.

3. On the other hand, the respondent management has contested the claim aforesaid of the petitioner on the ground that the petitioner had abandoned the job himself and he was not terminated. It is also stated that the petitioner had been quite irregular in attending his duties and many times he had been found working with other concerns. Thus, it is stated that the petitioner is not entitled to any relief.

4. On the aforesaid pleadings of the parties, following issues were framed :—

1. Whether the termination of the petitioner Shri Bhangi Ram is illegal and unjustified? If so, to what relief the petitioner is entitled to? OPP.

2. Relief.

5. Both the parties have led evidence in support of their respective claims. I have heard the petitioner. However, no one has appeared today on behalf of the respondent. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :—

FINDINGS

Issue No. 1	Yes.
Relief.	Termination set-aside. Petitioner re-instated with full back wages.

REASONS FOR DECISIONS

6. Issue No. 1.

The scrutiny of the evidence of the parties on record would make it evident that the petitioner was a permanent gardner and his services have been terminated without any notice and enquiry nor any compensation and other benefits as are envisaged under section 25-F of the Industrial Disputes Act, 1947 have been paid to the petitioner. The management has made an abortive attempt to show that the petitioner had been irregular in attending his duties and to this effect, the management had placed on record Exs. R-1 to Ex. R-12, which are the copies of letters written to the petitioner, but, no proof to the effect that these letters were actually delivered to the petitioner has been adduced nor any enquiry was held against the petitioner for his alleged absence from duty. Similarly an allegation has been levelled against the petitioner that he had been working with other concerns during the period of his employment with the respondent, but, no tangible proof to this effect has been adduced nor the petitioner was ever charge-sheeted for any such dereliction of his duties. On the other hand, the petitioner had clearly proved that he has been terminated in violation of the provisions of section 25-F of the Industrial Disputes Act, 1947. Similarly, the petitioner has also proved that no notice was served upon him nor any enquiry was held. The petitioner

has also examined Shri Gurdial Singh, (P. W.-2) who has proved the writing Ex-PB to the effect that he has given the said writing to the petitioner Shri Bhangi Ram when Shri Bhangi Ram was not allowed by him on 16-7-1990 to enter the gate of the factory. He has clarified that he had prevented Shri Bhangi Ram from entering the gate of the factory because he had been directed by Shri S. S. Parmar, Director (Commercial) to do so. Not only this, Shri Gurdial Singh has also stated that in June, 1991 and December, 1991, when Shri Bhangi Ram had come to join his duty in accordance with the order of the Court, he was also ordered by the management not to allow Shri Bhangi Ram to enter the gate of the factory. The record of the case would go to show that during the pendency of the reference, my learned predecessor had ordered the respondent on 25-6-1991 and 6-12-1991 to take back the petitioner. On both these occasions, the petitioner had submitted that he had not been allowed by the management to enter the gate of the factory. However, through its letters, which were sent by post by the management and have not been led in evidence, the management had informed that the petitioner had not reported for duty despite the order of the court.

7. The sum and substance of the aforesaid evidence on record would clearly go to show that neither services of the petitioner have been dispensed with as a result of any penalty nor the same have been terminated in accordance with the provisions of Section 25-F of the Industrial Disputes Act, 1947. Section 25-F of the Industrial Disputes Act, 1947 provides that services of a worker who has rendered not less than one year continuous service shall not be terminated unless he is served with a notice of 30 days or is paid one month wages in lieu of such notice. It is further provided that such workers shall also be entitled to compensation at the time of his termination, in accordance with the length of his service. The said provisions of Section 25-F *supra*, are mandatory and violation thereof would render the termination illegal. Evidently, in the case in hand, neither the termination has been made by way of penalty nor the provisions of Section 25-F *supra* have been complied with. The refore, the said termination is illegal and unjustified. However, the respondent has miserably failed to prove that the petitioner had abandoned the job himself. Not only this, the record of the case would go to show that on two occasions, when my learned predecessor had passed interim awards in favour of the petitioner to the effect that he will be taken back by the respondent, every time the respondent had played a mischief by giving wrong information to the Court that the petitioner had not reported for duty while actually the petitioner was not allowed to enter the gate of the factory. Unfortunately, my learned predecessor had not proceeded against the respondent for this contemptuous act. Thus, it can safely be inferred from the evidence aforesaid and the conduct of the respondent that the respondent had thrown the petitioner out of service in flagrant violation of the relevant provisions of law and the management is bent upon not to take back the petitioner despite the fact that there is admission of the respondent on record to the effect that even up to now the post which was being held by the petitioner is lying vacant. Accordingly, I come to the conclusion that the termination of the petitioner is illegal and unjustified and as such, the same is set aside and the petitioner is ordered to be re-instated as Gardner (Mali) with full back wages. As such, the petitioner has proved this issue. Therefore, this issue is decided in favour of the petitioner.

Relief

8. As a result of my findings in respect of issue No. 1 *supra*, I hold that the termination of the petitioner, is illegal and unjustified and as such, the same is set aside. The petitioner is re-instated with full back wages with all consequential benefits. The management is accordingly directed to take back the petitioner in continuation of his past service and to pay him the arrears of his all dues. Accordingly, the reference is answered in favour of the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its due publication in the Himachal Pradesh

Rajpatra in accordance with law. A copy of this award be supplied to the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the open court today the 7th November, 1994, in the presence of petitioner.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh Shimla,
Camp Nalagarh.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-125'93

Jai Murti Minerals and Chemicals Workers
Union .. Petitioner.

Jai Murti Mineral & Chemicals (P) Ltd. Paonta
Sahib. 9-1-1995. .. Respondent.

Shri Hem Raj, AR, for petitioner.
Shri S. D. Mohan, A.R. for respondent.

AWARD

As per statements of the representatives of the parties placed on record, the parties have arrived at amicable settlement. According to the terms of the settlement a copy of which is Ex. PA and is placed on record, major demands of the workers have been met by the management and on the other hand, the workers have given up the minor demands. Therefore, the dispute comes to an end and as such, the present reference stands disposed of on the basis of the settlement mentioned above. A copy of this award be sent to the Government of Himachal Pradesh Shimla for its publication. A copy of this award be supplied to the parties, free of cost, if applied for. This be consigned to the record room after completion.

Announced in the open court today the 9th January, 1995 in the presence of the parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref. No : 94/92.

Shri Gagan Singh .. Petitioner.

Versus

Executive Engineer, HPPWD, Division, Dalhousie
Chamba. .. Respondent.

Shri T.R. Bhardwaj, A R for petitioner.
Shri Onkar Singh, Assistant Engineer, AR. for respondent.

AWARD

Through this reference, the petitioner has claimed that he is entitled to regularisation prior to the regularisation of one Shri Amar Singh. However, after the said reference was received, the petitioner failed to file statement of claim despite the fact that various opportunities were afforded to him. The respondent has failed reply to the reference, today in which it has been stated that Shri Amar Singh was senior to Shri Gagan Singh and as such, he has rightly been regularised before Shri Gagan Singh.

2. I have heard the representatives of the parties

and have gone through the statement of Shri Onkar Singh, Assistant Engineer. It is clear from the statement of Sh. Onkar Singh (RW-1) coupled with the contents of Exs. RA & RB which are details of working days of both these workers that Shri Amar Singh was senior to Shri Gagan Singh and as such, he has rightly been regularised and the petitioner does not have any claim for regularisation prior to the regularisation of Shri Amar Singh. However, Shri Onkar Singh, Asst. Engineer has stated that recently the Government, had decided to regularise all the workers who have completed 10 years continuous service till 31-12-1993 and Shri Gagan Singh is one of them. Therefore, I hold that Shri Gagan Singh is not senior to Shri Amar Singh and as such, he is not entitled to any relief. Accordingly, the reference is answered against the petitioner. A copy of this award be sent to the Government of Himachal Pradesh for publication. A copy of this order be supplied to each of the parties, free of cost, if applied for. This be consigned to record room after its completion.

Announced in the open court today the 5th January, 1995 in the presence of parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla,
Camp Chamba.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref. 57 93-

Jarm Singh

..Petitioner.

Versus

Assistant Engineer, I. P. H. Sub-Division, Shuntka,
District Chamba, Himachal Pradesh .. Respondent.

5-1-1995

Shri T. R. Bhardwaj, AR. for petitioner.

Shri Raghubir Singh respondent in person.

AWARD

Through this reference the petitioner has sought for regularisation after completion of ten years service as daily wages worker. I have heard the representatives of the parties and have gone through the record. From the statement of Shri Raghubir Singh, Assistant Engineer coupled with the details of the working days of the petitioner which are mentioned in Ex-RA, it is clear that the petitioner has been working regularly for more than 240 days in each calendar year during the period from 1978 till 31-12-1993. Not only this, even after 31-12-1993, the petitioner has been working regularly as daily wages worker. Thus, the petitioner has worked continuously for more than 10 years and according to the law laid down by the Hon'ble Supreme Court in case titled 'MOOL RAJ UPADHAYA Vs STATE OF HIMACHAL PRADESH OTHERS', he is entitled to regularisation. Shri T. R. Bhardwaj, A R for the petitioner has stated that though the petitioner has set up some different claim in the reference, but, the petitioner would be satisfied if he is regularised in accordance with law laid down by the Hon'ble Supreme Court. Further, the AR the respondent has also categorically stated that the petitioner would not definitely be regularised. In view of this, the reference is answered in favour of the petitioner to the extent mentioned above and the same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh for publication. A copy of this award be supplied to the parties, free of cost, if applied for. This be consigned to record room after completion.

Announced in the open court today the 5th January, 1995 in the presence of the parties.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh Shimla.

In the Court of Shri B.S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref. 128/93-

Surinder Kumar .. Petitioner.

Versus

M/s K. B. Carbon Ribbon (P) Ltd., Raja-Ka-Bagh,
Nurpur .. Respondent.

5-1-1995

Shri Surinder Kumar, petitioner in person.

Shri Ashwani Trehan, Director with Shri R. L. Kaith,
AR for respondent.

AWARD

As per statements of the parties and their representatives placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent has agreed to pay a sum of Rs. 10,000/- to the petitioner within a period of thirty days from today. On the other hand, the petitioner has given up his entire claim in lieu of said amount of Rs. 10,000/-. Apart from this, the respondent has undertaken to pay the earned wages of the petitioner which have not been paid to him so far as such, a result of this settlement, the present dispute comes to an end and the reference stands disposed of accordingly. However, it is made clear that if the respondent does not pay the amount of Rs. 10,000/- within 30 days from today i.e. on or before 5-2-1995, the petitioner will be entitled to interest at the rate of 18% per annum from the respondent. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication. A copy of this award be supplied to each of the parties free of cost, if applied for. The file after its completion be consigned to record room.

Announced in the open court today the 5th January, 1995 at Camp Court, Chamba, in the presence of the parties.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref. 59/90-

Nirmal Singh .. Petitioner.

Versus

M/s Jai Mata Rolled Glass Ltd., Barotiwala
.. Respondent.

24-5-1994

Shri A. K. Sharma, AR for petitioner.
Shri V. K. Gupta, AR for respondent.

AWARD

As per statements of the parties representatives placed on record, the parties have arrived at amicable settlement, according to which the respondent-management has agreed to pay a sum of Rs. 5000/- to the petitioner in lieu of full and final settlement including the earned wages and, in turn, the petitioner has given up his claim, which has set up in the present reference. Accordingly, the

present reference stands disposed of on the basis of the said settlement. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced this 24th day of May, 1994 in the open court.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref. 49/90-

Surinder Singh .. Petitioner.

Versus

M/s Jai Mata Rolled Glass Ltd., Barotiwala
.. Respondent.

24-5-1994

Shri A. K. Sharma, AR for petitioner.
Shri V. K. Gupta, AR for respondent.

AWARD

As per statements of the parties representatives placed on record, the parties have arrived at amicable settlement, according to which the respondent-management has agreed to pay a sum of Rs. 5000/- to the petitioner in lieu of full and final settlement including the earned wages and, in turn, the petitioner has given up his claim, which he has set up in the present reference. Accordingly, the present reference stands disposed of on the basis of the said settlement. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced this 24th day of May, 1994 in the open court.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh

Ref. 37/90-

Gurbux Singh .. Petitioner.

Versus

M/s Jai Mata Rolled Glass Ltd., Barotiwala
.. Respondent.

24-5-1994

Shri A. K. Sharma, AR for petitioner.
Shri V. K. Gupta, AR for respondent.

AWARD

As per statements of the parties representatives placed on record, the parties have arrived at amicable settlement, according to which the respondent-management has agreed to pay a sum of Rs. 5000/- to the petitioner in lieu of full and final settlement including the earned wages

and, in turn, the petitioner has given up his claim, which he has set up in the present reference. Accordingly, the present reference stands disposed of on the basis of the said settlement. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced this 24th day of May, 1994 in the open court.

Seal. **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer
Labour Court, Himachal Pradesh, Shimla

Ref 46/90-

Avtar Singh .. Petitioner.

Versus

M/s Jai Mata Rolled Glass Ltd, Tipra, Barotiwala
.. Respondent.

6-5-1994

Shri A. K. Sharma, AR for petitioner.

Shri V. K. Gupta, AR for respondent.

AWARD

As per statements of the parties representatives placed on record, the parties have arrived at settlement, a copy of which is Ex. PA and is placed on record. In view of this settlement, the petitioner has given up his claim, which has been set up in the present reference. This being so, the reference does not require any adjudication and the same does not survive. The reference is disposed of accordingly. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, if applied for, free of cost. The file after its due completion be consigned to the record room.

Announced in the open court today the 6th May, 1994.

Seal. **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref 50/90-

Prem Singh .. Petitioner.

Versus

M/s Jai Mata Rolled Glass Ltd, Tipra, Barotiwala.
.. Respondent.

6-5-1994

Shri A. K. Sharma, AR for petitioner.
Shri V. K. Gupta, AR for respondent.

AWARD

As per statements of the parties representatives placed

on record, the parties have arrived at settlement, a copy of which is Ex. PA and is placed on record. In view of this settlement, the petitioner has given up his claim, which has been set up in the present reference. This being so, the reference does not require any adjudication and the same does not survive. The reference is disposed of accordingly. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, if applied for, free of cost. The file after its due completion be consigned to the record room.

Announced in the open court today the 6th May, 1994.

Seal. **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-57/90-

Darshan Singh .. Petitioner.

Versus

M/s Jai Mata Rolled Glass Ltd, Tipra, Barotiwala
.. Respondent.

24-5-1994

Shri A. K. Sharma, AR for petitioner.

Shri V. K. Gupta, AR for respondent.

AWARD

As per statements of the parties representatives placed on record, the parties have arrived at amicable settlement, according to which the respondent-management has agreed to pay a sum of Rs. 3390/- to the petitioner in lieu of full and final settlement including the earned wages and in turn, the petitioner has given up his claim, which he has set up in the present reference. Accordingly, the present reference stands disposed of on the basis of the said settlement. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced this 24th Day of May, 1994 in the open court.

Seal. **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-5/92-

Staff Association .. Petitioner.

Versus

Chamera Jal Vidyut Pariyojna Dalhousie .. Respondent.

19-5-1994

Shri Waryam Singh, AR for petitioners.

Shri Interject Boral AR for respondent.

Versus

AWARD

As per statements of the parties representative placed on record, the dispute, in question, stands settled in view of the office order issued by the respondent, a copy of which is Ex. PA and is placed on record. As such, the petitioners do not have any demand now concerning the present reference and the dispute comes to an end. Therefore, the present reference is disposed of accordingly on the basis of the said settlement. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its due publication in the Himachal Pradesh Rajpatra in accordance with law. The file after its completion be consigned to the record room.

Announced in the open court today the 19th May, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-80/93-

General Secretary Gabriel Employees Union
.. Petitioner.

Versus

General Manager, M/s Gabriel India Ltd, Parwanoo
and others. .. Respondent.

1-6-1994

Shri J. C. Bhardwaj AR for petitioner.

Shri V. K. Gupta, AR for respondent.

AWARD

As per statements of the representatives of the parties placed on record, the parties have arrived at amicable settlement and a copy of the settlement, which is Ex. PA has been placed on record. According to the settlement, the management employer, that is, M/s Asla security services has agreed to pay a lump sum amount of Rs. 3100/- to each of its workers on account of the delay of one and a half year in the settlement and apart from this, the management has agreed to pay an increase of Rs. 325/- per month w.e.f. 1-1-1994 to each of its workers in their monthly wages. Further, the management has also agreed to grant advance against wages to the tune of Rs. 1000/- each of its workers. The remaining demands, which were set up by the workers in the present reference have been given up by them. Therefore, the dispute, in question, comes to an end as a result of the said settlement and the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. The file after its completion be consigned to the record room.

Announced in the open court today the 1st June, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-36/90

Avtar Singh

.. Petitioner.

M/s Jai Mata Rolled Glass Ltd., Tipra, Barotiwala
.. Respondent.

2-6-1994.

Shri A. K. Sharma, AR for petitioner.
Shri V. K. Gupta, AR for respondent.

AWARD

As per statements of the parties representatives placed on record the parties have arrived at amicable settlement, according to which the respondent-management has agreed to pay a sum of Rs. 500/- to the petitioner in full and final settlement of all the dues of the petitioner, except Rs. 313.35 paise on account of earned wages, which the respondent has agreed to pay to the petitioner alongwith the said amount of Rs. 5000/-. In turn, the petitioner has given up his claim with respect to his termination, which has been set up in the present reference. In view of this, the dispute comes to an end as a result of the said settlement and the reference stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. The file after its completion be consigned to the record room.

Announced in the open court today the 2nd June, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-52/90-

Hardev Singh
.. Petitioner.

Versus

M/s Jai Mata Rolled Glass Ltd., Tipra, Barotiwala
.. Respondent

2-6-1994

Shri A. K. Sharma, AR for petitioner.
Shri V. K. Gupta, AR for respondent.

AWARD

As per statements of the parties representatives placed on record, the parties have arrived at amicable settlement according to which the respondent-management has agreed to pay a sum of Rs. 5000/- to the petitioner in full and final settlement of all the dues of the petitioner, except Rs. 307.90 paise on account of earned wages, which the respondent has agreed to pay to the petitioner alongwith the said amount of Rs. 5000/-. In turn, the petitioner has given up his claim with respect to his termination, which has been set up in the present reference. In view of this the dispute comes to an end as a result of the said settlement and the reference stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. The file after its completion be consigned to the record room.

Announced in the open court today the 2nd June, 1994

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-21/93-

President, J. K. Leatherite Mazdoor sangh .. Petitioner.

Versus

For petitioner: Shri A. K. Gupta, Advocate.

M/s J. K. Leatherite (P.) Ltd., Mehatpur .. Respondent.

For respondent: Shri D. D. Gautam, respondent in person.

2-5-1994

Shri P. L. Bery, AR for petitioner.
Shri M. S. Khan, AR for respondent.

AWARD

AWARD

As per statements of the parties representatives placed on record, the dispute, in question stands settled. According to the settlement, a copy of which is Ex. P.A., and is placed on record, the management has accepted a few demands of the workers which are subject matter of present dispute and the remaining demands have been withdrawn by the workers. Out of the demands which have been accepted by the management, the first relates to grant of bonus at the rate of 17% which the management has agreed to pay to its workers for the year 1993-94 at the rate of 17%. Secondly, the management has agreed to pay cycle allowance to those workers. Who have not been allotted the residential accommodation at the factory premises. This allowance will be admissible to each worker at the rate of Rupees 25/- per month w.e.f. 1-4-1994. Thirdly, the management has agreed to grant 14 days leave on medical ground on the basis of medical certificate from the E. S. I. doctor. This leave would be half pay leave from 14 days and a worker will be entitled to 7 days full leave in lieu of this 14 days half leave. Similarly, the management has agreed to grant 4 days leave on medical ground on the basis of the medical certificate other than from E. S. I. doctor and this leave will be granted in lieu of 8 days half leave. Thus, in all, a worker will be entitled only 7 days' full leave on the basis of certificate from E. S. I. doctor or from other doctor. Apart from this, the management has agreed to finalise the seniority list of workers and also to examine the structure of annual increments. Further, the workers have agreed to contribute 5% of the bonus amount towards the contribution to the union and this amount will be deducted by the management at the time of payment of the bonus and will be deposited with the cash of Rajkiya Mazdoor Sangh, Una.

2. In view of this settlement, the dispute comes to an end and the reference does not require any adjudication. Accordingly, the reference stands disposed of. As such, award is passed in terms of the aforesaid settlement. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2, for its publication in the official gazette that is Himachal Pradesh Rajpatra in accordance with law and a copy be given to the parties, free of cost, if applied for by them. The file be consigned to the record room after its due completion.

Announced on this 2nd May, 1994 in open court at Shimla.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. 120/92

Instituted on: 17-12-1992

Decided on: 31-5-1994

Shri Chitrangji Lal s/o Shri Om Parkash, r/o Verma Patti, Tehsil Nahan, District Sirmour. .. Petitioner.

Versus.

Executive Engineer, Himachal Pradesh Public Works Department (B & R), Nahan Division, Nahan .. Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947

The state Government has referred the present dispute concerning the termination of the petitioner Shri Chitrangji Lal, for determination by this Court.

2. The case of the petitioner is that he had been serving as beldar on daily wages in Himachal Pradesh Public Works Department. Under the respondent Executive Engineer, Nahan since 1988 and on 31-7-1990, his services were terminated without any notice and compensation. It is further stated that the compensation was not paid at the time of termination, but, the same was paid subsequently, which was not in accordance with the provisions of section 25-F of the Industrial Disputes Act, 1947. Thus, he is stated that the termination in question is illegal and same be set aside and the petitioner be re-instated with back wages.

3. On the other hand, the respondents have admitted that the services of the petitioner were terminated on 31-7-1990. It is stated that the services of the petitioner were terminated for want of funds. It is also stated that the compensation could not be paid to the petitioner at the time of the termination because the petitioner was not available at that time and as such, the same was paid in February, 1991.

4. On the aforesaid pleadings of the parties, the learned predecessor had framed the followings issues:-

1. Whether non payment of compensation under Section 25-F of the Industrial Disputes Act, 1947, on 31-7-1990 i.e. at the time of termination, vitiates the termination order, if so, its effect? OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :-

FINDINGS

Issues No. 1: Yes.

Relief: Reference answered in favour of the petitioner.

REASONS FOR DECISION

Issue No. 1:

6. The scrutiny of the evidence on record would clearly go to show that the services of the petitioner were terminated on 31-7-1990, while the compensation was paid in February, 1991. It would be significant to mention here that since the termination of the petitioner was *prima facie* illegal, my learned predecessor had ordered there instatement of the petitioner during the proceedings of this case on 22-6-1993, pending decision of the case on merits. Now, the question arises as to whether late payment of compensation is legally justified or not. In order to determine this question, it would be essential to examine the case in the light of the provisions of section 25-F of the Industrial Disputes Act, 1947. Section 25-F reads: "No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until :-

(a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of notice.

(b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.

7. It would be evident from the aforesaid provisions of section 25-F of the Industrial Disputes Act, 1947 that a workman who has rendered at least one year continuous service has to be served with one month's notice or has to be paid one month's wages in lieu thereof before his services are terminated. Apart from this, the workman is also entitled to compensation according to the number of years he has served. In the case in hand, it is not disputed by the respondent that the petitioner had been continuously in service since January, 1988 and his services were terminated on 31-7-1990. As such, the petitioner was entitled to 1½ month's wages on account of compensation. Apart from this, he was entitled to one month's wages in lieu of notice because in this case no notice was served upon the petitioner. Thus, in all, the petitioner was entitled to 2½ month's wages. The evidence on record would go to show that the respondent has miserably failed to show that 2½ months wages were paid to the petitioner because no evidence to this effect, at all, has been adduced. Apart from this, the plea of the respondent that the compensation, in question, could not be paid in time because the petitioner was not available, does not appear to be genuine and justified because even if it is taken that the petitioner had been evading the payment of compensation, the respondent should have sent the same by money order or through any other effective mode to the petitioner. But, it is clear from the record of the case that the respondent had not made any such efforts and as such, it is difficult to believe that the petitioner had actually been evading the payment of the compensation; especially, when the respondent had failed to remit the amount of compensation to the petitioner as soon as possible after his termination. Thus, I come to the conclusion that termination in this case is illegal for two reasons. The first is that the respondent has failed to show that it had complied with the provisions of section 25-F of the Industrial Disputes Act, 1947 and secondly, the late payment of compensation is not justified because the respondent had not made genuine efforts to remit the compensation as soon as possible. As such, I hold that the petitioner is entitled to reinstatement with back wages. Therefore, the petitioner has proved this issue. Thus, this issue is decided in favour of the petitioner and against the respondent.

Relief :

8. Keeping my findings on the aforesaid issue in view, I hold that the termination of the petitioner is illegal and unjustified and as such, the same is set aside and the petitioner is re-instated as Beldar *w.e.f.* 1-8-1990. The petitioner is entitled to back wages *w.e.f.* 1-8-1990 till the date when he was re-employed in accordance with the order of this Court and these back wages are fixed at Rs. 10,000. Accordingly, the reference is answered in favour of the petitioner and the same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-171002 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 31st May, 1994.

Seal.

B. S. CHAUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B.S. Chauhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No : 77/92
Instituted on : 5-12-1992

Decided on : 30-5-1994

Shri Ram Swaroop & Smt. Phoola Wanti, c/o Shri Manphool, Punjab Circuit House, Cedar, Shimla
.. Petitioner.

Versus

Principal, Himalayan International School,
Chharabra, District Shimla.

.. Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri J.C. Bhardwaj, AR.
For respondent : Shri Karam Chand, AR.

AWARD

Through this reference, the State Government has referred the present dispute, concerning the termination of Shri Ram Swaroop and his wife Smt. Phoola Wanti, for determination, by this Court.

2. The brief facts of the case are that Shri Ram Swaroop and his wife Smt. Phoola Wanti were employed by the respondent, Himalayan International School, Chharabra, hereinafter referred to as the "management", in August, 1988, as Sweeper and Sweepers, respectively. Thereafter, the couple continued working till 30-5-1992, on which date their services were terminated by the management.

3. The case of the petitioners is that their services have been terminated illegally because neither any inquiry was held against them nor any notice was served and as such, the termination be set aside and they be re-instated with back wages.

4. On the other hand, the management has contested the claim aforesaid of the petitioner on the ground that on 23-5-1992, both the petitioner were found negligent of their duties and as such, they were issued warnings which they declined to receive and accept and as such, their services were terminated after paying the compensation which is required to be paid under Section 25-F of the Industrial Disputes Act, 1947.

5. On the aforesaid pleadings of the parties, my learned predecessor had framed the following issues :—

1. Whether the termination of the petitioners by the respondent without any enquiry is legal and justified, as alleged ? OPR

2. Relief.

6. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :—

FINDINGS

Issue No 1 : Yes.

Relief : Reference is answered against the petitioners.

REASONS FOR DECISION

Issue No 1 :

The perusal of the record of the case including the evidence, both oral and documentary, which has been led by the parties, would clearly go to show that both the petitioners were found negligent of their duty on 23-5-1992 as a result of which the management had issued warnings, but the petitioners declined to receive the said warnings. Not only this, the petitioners also refused to face any inquiry on this aspect. Thereafter, on the same day, the management had terminated both the petitioners after

paying them three months wages alongwith bus fare upto their home town.

8. Now, the question arises as to whether the said termination of the petitioners is legal and justified. For this purpose, it is essential here to refer to the provisions of Section 25-F of the Industrial Disputes Act, 1947. Section 25-F *ibid* reads : "No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until :—

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of notice.
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months

9. It would be evident from the aforesaid provisions of Section 25-F of the Industrial Disputes Act, 1947 that before the services of a workman, who has rendered continuous service for not less than one year, are terminated, he has to be served with one month's notice or has to be paid one month's wages in lieu of such notice. Apart from this, such workman has to be paid compensation according to number of years he has served. In the case in hand, the petitioners had served for more than 3-1/2 years and as such, each of them was entitled to a compensation of two months wages apart from one month's wages in lieu of notice. The record of the case would go to show that the management had paid three months wages to each of the petitioners apart from the bus fare. Therefore, even if, no notice was served upon the petitioner, the management had fully complied with the provisions of Section 25-F of the Industrial Disputes Act, 1947, while dispensing with the services of the petitioners. As regards the holding of the enquiry, there was hardly any occasion for the management to hold the enquiry when the petitioners had declined to co-operate and face such inquiry. Therefore, under these circumstances, the only available course to the management was to terminate the services of the petitioners after complying with the provisions of Section 25-F of the Industrial Disputes Act, 1947. As such, I come to the conclusion that the termination of the petitioners by the respondent-management without any enquiry is legal and justified because the management had complied with the provisions of Section 25-F of the Industrial Disputes Act, 1947 before the services of the petitioners were terminated. Thus, I hold that the respondent has proved this issue. Accordingly, this issue is decided in favour of the respondent and against the petitioners.

Relief :

10. Keeping my findings on the aforesaid issue in view, I hold that the termination of the petitioners is legal and justified and as such, the petitioners are not entitled to any relief. Accordingly, the reference is decided against the petitioners. As such, the reference stands disposed of. A copy of this award is sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award is supplied to each of the parties free of costs, if applied for. The file after its completion is consigned to the record room.

Announced in the Open Court today the 30th May, 1994.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No : 19 of 1992

Instituted on : 27-4-1992

Decided on : 28-6-1994

Municipal Karamchhari Union, Nahan.

..Petitioner.

Versus

Administrator, Municipal Committee, Nahan.

..Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner-union : Shri Jagdish Chand, AR.

For respondent : Shri Ali Sher, AR.

AWARD

Through this reference, the State Government has referred the present dispute of the petitioner-union, for determination by this Court.

2. The case of the petitioner-union is that the respondent-management has failed to supply uniforms to its workers. Similarly, it is stated that the respondent-management has not been disbursing the wages of the workers in time. It is stated that the uniforms for the year, 1990 had not been supplied till 1994. It is further mentioned that the wages for the months of August and September, 1991 were disbursed quite late. Thus, it is stated that the respondent-management be directed to supply the uniforms to its workers in the due dates and also to disburse the wages of the workers within time.

3. On the other hand, the respondent-management has admitted that the uniforms to its workers for the year, 1990 could not be supplied in time. It is stated that the same could not be supplied for want of funds and efforts are now being made to supply the same. Similarly, it is also stated that due to paucity of funds, the wages of the workers for the months of August and September, 1991 could not be paid in time. However, it is stated that the same have now been paid.

4. On the aforesaid pleadings of the parties, following issues were framed by my learned predecessor :—

1. Whether the petitioners are entitled to the uniforms for the year, 1990 ? OPP.
2. Whether the petitioners are entitled to any compensation or relief for late disbursement of pay for August, 1991 and September, 1991 ? OPP.

3. Relief .

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :—

FINDINGS :

Issue No. 1 :	Yes
Issue No. 2 :	Yes
Relief :	Reference answered in favour of the petitioner-union.

REASONS FOR DECISION

Issue No. 1 :

6. The record of the case would go to show that the uniforms for the year, 1990 were supplied by the management to its workers in 1991. The plea of the management that the same could not be supplied in time for want of

funds, needs to be rejected out-rightly because such a plea can readily be raised to defeat the claim of the workers. During the course of arguments, it has transpired that the uniforms for the years from 1991, 1992 and 1993 have also not been supplied, which is highly depreciable. The respondent-management is directed to supply the uniforms for the years 1991, 1992 and 1993 within two months from the date of this award, failing which the workers will be entitled to interest @ 18% per annum on the uniform for the relevant year because the workers amount of the have a right to such uniforms every year. Accordingly, this issue is decided in favour of the petitioner-union.

Issue No. 2 :

7. The perusal of the contents of the statement of claim, in which the petitioner-union has mentioned the details of the dates on which the wages of the workers were disbursed during the period from July, 1990 to December, 1991, would go to show that except for three months during the said period, when the wages were paid within 5 days of the following months, the management had been delaying the payment of wages of the workers inordinately. Evidently, the ready made answer with the management is that the same could not be done for want of funds, which plea has no substance. The workers have a right to receive their wages immediately after the completion of every month. Any how, the disbursement of the wages should not be delayed beyond 7th day of the following month i.e. the wages must be disbursed on or before the 7th day of the following months.

The record of the case would go to show that the wages for August, 1991 were disbursed on 3-10-1991 i.e. after one month and two days, while, the wages for September, 1991 were disbursed on 9-10-1991. Similarly, the wages for December, 1991 were disbursed on 14-1-1992. One can easily imagine the hardship which is caused to the workers if their wages are not paid within first week of the following month. Therefore, for future, the management is directed to pay the wages of the workers within 7 days of the following month. As regards the wages for August, 1991, which were paid after a period of one month and two days without any reasonable cause, the workers are definitely entitled to interest. As such, the management is directed to pay interest @ 18% per annum to the workers in respect of the late disbursement of wages for the month of August, 1991. Therefore, this issue is decided in favour of the petitioner.

Relief:

8. Keeping my findings on the aforesaid issues in view, the management is directed to supply the uniforms to its workers for the year, 1991, 1992 and 1993 within a period of two months from today, failing which the workers will be entitled to interest @ 18% p.a. on the amount of the uniform for the relevant year. For future, the management is directed to supply the uniforms within time. As regards the payment of wages for August, 1991, the respondent is directed to pay interest @ 18% p.a. to the workers on account of late payment of the said wages. Accordingly, the reference is answered in favour of the petitioner-union and the same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-171002, for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, if applied for, free of cost. The file after its completion be consigned to the record room.

Announced in the Open Court today the 28th June, 1994.

Seal **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-30/91—

Roop Singh

Petitioner.

Versus

M/s Purewal & Associates Ltd., Jubbhar
Respondent.

12-1-1995, Shri A. K. Sharma, AR for the petitioner.
Shri V. K. Gupta, AR for the respondent.

AWARD

As per statements of the representatives of the parties placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent has agreed to pay a sum of Rs. 6,000/- to the petitioner in lieu of his entire claim, which he has set up in the present reference. Apart from this, the respondent has also agreed to pay all legal dues of the petitioner i.e. gratuity, bonus, leave encashment etc. The respondent has undertaken to pay the amount of Rs. 6,000 and all the legal dues within 15 days from today i.e. on or before 27-1-1995. As a result of the said settlement, the petitioner has given up his entire claim, which he has set up in the present reference. As such, the dispute comes to an end. Accordingly, the reference stands disposed of on the basis of the said settlement. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-171002 for its publication. A copy of this award be supplied to each of the parties, free of cost, if applied for. This be consigned to record room after its completion.

Announced in the Open Court today the 12th January, 1995 in the presence of the parties.

Seal **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-31/91

Moti Ram Petitioner.

Versus

M/s Purewal & Associates Ltd., Jubbhar
Respondents.

12-1-1995. Shri A. K. Sharma, AR for the petitioner.
Shri V. K. Gupta, AR for the respondent.

AWARD

As per statements of the representatives of the parties placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent has agreed to pay a sum of Rs. 6,000/- to the petitioner in lieu of his entire claim, which he has set up in the present reference. Apart from this, the respondent has also agreed to pay all legal dues of the petitioner i.e. gratuity, bonus, leave encashment etc. The respondent has undertaken to pay the amount of Rs. 6,000/- and all the legal dues within 15 days from today i.e. on or before 27-1-1995. As a result of the said settlement, the petitioner has given up his entire claim, which he has set up in the present reference. As such, the dispute comes to an end. Accordingly, the reference stands disposed of on the basis of the said settlement. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-171002 for its publication. A copy of this award be supplied to each of the parties, free of cost, if applied for. This be consigned to record room after its completion.

Announced in the Open Court today the 12th January, 1995 in the presence of the parties.

Seal **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

In the Court of Shri B.S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref. 63/93

Shyam Lal

..Petitioner

Versus

M/s Hitkari Potteries (P.) Ltd., Parwanoo

..Respondent.

30-12-1994 Shri A. K. Sharma, AR for petitioner.
Shri Mohinder Nath Pandey, AR for respondent.

AWARD

As per statements of the representatives of the parties placed on record, the dispute, in question, stands settled. According to the settlement, the management has agreed to pay a sum of Rs. 12,000/- to the petitioner within a period of seven days from today in lieu of his entire claim, which he has set up in the present reference. As such, the AR of the petitioner has noted that the petitioner has given up his claim, which he has set up in the present reference. Accordingly, the dispute comes to an end and the reference stands disposed of on the basis of the said settlement. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-171 002 for its publication in accordance with law. A copy of this award be supplied to the parties, free of cost, if applied for. The file after its completion be consigned to record room.

Announced in the Open Court today the 30th December, 1994 in the presence of the parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B.S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Ref. No : 94/90.

Charan Singh

..Petitioner.

Versus

M/s Gabriel India Ltd., Parwanoo

..Respondent.

Petitioner with Shri J. C. Bhardwaj, AR.
Shri V. K. Gupta, AR for respondent.

AWARD

As per statements of the representatives of the parties and that of the petitioner placed on record, the parties have arrived at amicable settlement, according to which the respondent has agreed to pay a sum of Rs. 14,000/- to the petitioner in lieu of the entire claim of the petitioner which the petitioner has set up in the present reference. The said amount of Rs. 14,000/- will be paid within 15 days from today. The petitioner will be at liberty to receive the payment of this amount in the factory office within 10 days from today, failing which the cheque of the said amount will be sent by registered post to the petitioner. As such, the dispute, in question, comes to an end and the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh for publication. The file after its completion be consigned to the record room.

Announced in the Open Court today the 24th August, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref. No : 95/90.

Prakash Chand

..Petitioner.

Versus

M/s Gabriel India Ltd., Parwanoo

..Respondent.

Petitioner with Shri J. C. Bhardwaj, AR.
Shri V.K. Gupta, AR, for respondent.

AWARD

As per statements of the representatives of the parties and that of the petitioner placed on record, the parties have arrived at amicable settlement, according to which the respondent has agreed to pay a sum of Rs. 14,000/- to the petitioner in lieu of the entire claim of the petitioner which the petitioner has set up in the present reference. The said amount of Rs. 14,000/- will be paid within 15 days from today. The petitioner will be at liberty to receive the payment of this amount in the factory office within 10 days from today, failing which the cheque of the said amount will be sent by registered post to the petitioner. As such, the dispute, in question, comes to an end and the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh for publication. The file after its completion be consigned to the record room.

Announced in the Open Court today the 24th August, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B.S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref. No. : 97/90.

Gurinder Singh

..Petitioner.

Versus

M/s Gabriel India Ltd., Parwanoo

..Respondent.

Petitioner with Shri J. C. Bhardwaj, AR.
Shri V.K. Gupta, AR for respondent.

AWARD

As per statements of the representatives of the parties and that of the petitioners placed on record, the parties have arrived at amicable settlement, according to which the respondent has agreed to pay a sum of Rs. 14,000/- to the petitioner in lieu of the entire claim of the petitioner which the petitioner has set up in the present reference. The said amount of Rs. 14,000/- will be paid within 15 days from today. The petitioner will be at liberty to receive the payment of this amount in the factory office within 10 days from today, failing which the cheque of the said amount will be sent by registered post to the petitioner. As such, the dispute, in question, comes to an end and the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh for publication. The file after its completion be consigned to the record room.

Announced in the Open Court today the 24th August, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref. No. 98/90.

Prithpal Singh .. Petitioner.

Versus

M/s Gabriel India Ltd., Parwanoo.
.. Respondent.

Petitioner with Shri J. C. Bhardwaj, AR.
Shri V. K. Gupta, AR for respondent.

AWARD

As per statements of the representatives of the parties and that of the petitioner placed on record, the parties have arrived at amicable settlement, according to which the respondent has agreed to pay a sum of Rs. 14,000 to the petitioner in lieu of the entire claim of the petitioner which the petitioner has set up in the present reference. The said amount of Rs. 14,000 will be paid within 15 days from today. The petitioner will be at liberty to receive the payment of this amount in the factory office within 10 days from today, failing which the cheque of the said amount will be sent by registered post to the petitioner. As such the dispute, in question, comes to an end and the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh for publication. The file after its completion be consigned to the record room.

Announced in the Open Court today the 24th August, 1994.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref. No. 100/90.

Tarlochan Singh, .. Petitioner.

Versus

M/s Gabriel India Ltd., Parwanoo
.. Respondent.

Petitioner with Shri J. C. Bhardwaj, AR.
Shri V. K. Gupta, AR for respondent.

AWARD

As per statements of the representatives of the parties and that of the petitioner placed on record, the parties have arrived at amicable settlement, according to which the respondent has agreed to pay a sum of Rs. 14,000 to the petitioner in lieu of the entire claim of the petitioner which the petitioner has set up in the present reference. The said amount of Rs. 14,000 will be paid within 15 days from today. The petitioner will be at liberty to receive the payment of this amount in the factory office within 10 days from today, failing which the cheque of the said amount will be sent by registered post to the petitioner. As such, the dispute, in question, comes to an end and the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh for publication. The file after its completion be consigned to the record room.

Announced in the Open Court today the 24th August, 1994.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref. No. 101/90.

Rajinder Kumar .. Petitioner.

Versus

M/s Gabriel India Ltd., Parwanoo .. Respondent.

Petitioner with Shri J. C. Bhardwaj, AR

Shri V. K. Gupta, AR for respondent

AWARD

As per statements of the representatives of the parties and that of the petitioner placed on record, the parties have arrived at amicable settlement, according to which the respondent has agreed to pay a sum of Rs. 14,000/- to the petitioner in lieu of the entire claim of the petitioner which the petitioner has set up in the present reference. The said amount of Rs. 14,000/- will be paid within 15 days from today. The petitioner will be at liberty to receive the payment of this amount in the factory office within 10 days from today, failing which the cheque of the said amount will be sent by registered post to the petitioner. As such, the dispute, in question, comes to an end and the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh for publication. The file after its completion be consigned to the record room.

Announced in the open Court today the 24th August, 1994.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref. No. 102/90.

Mohan Lal .. Petitioner.

Versus

M/s Gabriel India Ltd., Parwanoo .. Respondent.

Petitioner with Shri J. C. Bhardwaj, AR

Shri V. K. Gupta, AR for respondent

AWARD

As per statements of the representatives of the parties and that of the petitioner placed on record, the parties have arrived at amicable settlement, according to which the respondent has agreed to pay a sum of Rs. 14,000/- to the petitioner in lieu of the entire claim of the petitioner which the petitioner has set up in the present reference. The said amount of Rs. 14,000/- will be paid within 15 days from today. The petitioner will be at liberty to receive the payment of this amount in the factory office within 10 days from today, failing which the cheque of the said amount will be sent by registered post to the petitioner. As such, the dispute, in question, comes to an end and the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh for publication. The file after its completion be consigned to the record room.

Announced in the open Court today the 24th August, 1994.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Ref. No. 105/90.

Reference No: 75/92

Daljeet Singh

..Petitioner.

Instituted on : 26-11-1992

Versus

Decided on : 1.6.1994

M/s. Gabriel India Ltd., Parwanoo

..Respondent.

Shri Gurcharan Singh, s/o Shri Ranjit Singh, r/o Handia
Mohall 'Kalka' Haryana ..Petitioner.

Petitioner with Shri J. C. Bhardwaj, AR

Versus

Shri V. K. Gupta, AR for respondent

Divisional Manager, Himachal Road Transport
Corporation Shimla .. Respondent.

AWARD

Reference under section 10 of the Industrial Disputes
Act, 1947.

For petitioner: Shri J. C. Bhardwaj AR.

For respondent: Shri R. L. Chauhan AR.

AWARD

As per statements of the representatives of the parties and that of the petitioner placed on record, the parties have arrived at amicable settlement, according to which the respondents has agreed to pay a sum of Rs. 14,000/- to the petitioner in lieu of the entire claim of the petitioner which the petitioner has set up in the present reference. The said amount of Rs. 14,000/- will be paid within 15 days from today. The petitioner will be at liberty to receive the payment of this amount in the factory office within 10 days from today, failing which the cheque of the said amount will be sent by registered post to the petitioner. As such, the dispute, in question, comes to an end and the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh for publication. The file after its completion be consigned to the record room.

The state Government has referred the dispute regarding the termination of petitioner Shri Gurcharan Singh for determination by this Court.

Announced in the Open Court today in the 24th August, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Ref. No. 93/90

Shri Karam Singh

.. Petitioner.

Versus

M/s Gabriel India Ltd., Parwanoo

.. Respondent.

Petitioner with Shri J. C. Bhardwaj, AR
Shri V. K. Gupta, AR for respondent

AWARD

As per statements of the representatives of the parties and that of the petitioner placed on record, the parties have arrived at amicable settlement, according to which the respondent has agreed to pay a sum of Rs. 14,000/- to the petitioner in lieu of the entire claim of the petitioner which the petitioner has set up in the present reference. The said amount of Rs. 14,000/- will be paid within 15 days from today. The petitioner will be at liberty to receive the payment of this amount in the factory office within 10 days from today, failing which the cheque of the said amount will be sent by registered post to the petitioner. As such, the dispute, in question, comes to an end and the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh for publication. The file after its completion be consigned to the record room.

Announced in the Open Court today th: 24th August, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

4. On the aforesaid pleadings of the parties my learned predecessor had framed the following issues :-

1. Whether the termination of the petitioner by the management is legal and justified ? OPR.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter my finding on the aforesaid issues are as under :-

FINDINGS

Issue No. 1. Yes.

Relief Reference answered against the petitioner.

REASONS FOR DECISION

6. Issue No. 1.

The evidence of the case would go to show that the petitioner had been detailed on duty as driver in H R T C Bus No. H. P. A. 1070 on 17-9-1987 which was to be driven by him from Balera to Solan. Accordingly the petitioner had driven the said bus from Balera to Solan and had left Balera in the morning. The petitioner had consumed liquor at Balera and thereafter, at Kunihar and when the bus reached at a place known as Badorghatt, the passengers found that the driver was driving the bus in rash and negligent manner and there was danger to their lives. As such, the passengers had got down

from the bus at Badorghatti, but, the driver had driven away the empty bus and when he reached at Jadli, he was not in a position to drive the bus beyond at Jadli, because of the influence of liquor. Subsequently, the passengers had reported the matter to the concerned authorities as a result of which the concerned officials of the H. R. T. C. had visited the spot and had found that the petitioner was sleeping on a bench. The petitioner was thereafter, taken for medical examination to the nearby hospital at Arki and on examination, it was found that he had consumed liquor. Subsequently, the petitioner was charge sheeted for negligence of his duty and also for consuming liquor while on duty. The record of the case would clearly go to show that not only the enquiry was held in a fair and proper manner, but, the evidence which was led during the inquiry was also sufficient to hold the petitioner guilty of the charges, which were levelled against him. Thus, I am of the view that the petitioner was rightly held guilty of the charges, in question. Shri J. C. Bhardwaj, representative of the petitioner has stated during the course of arguments that petitioner does not assail the findings of the Inquiry Officer to the effect that inquiry was held in a fair and proper manner. However, he has argued that the penalty of removal from service, is excessive and as such there is justification for reduction of the same. I have considered the said argument and am of the view that after taking into consideration the nature of duties of the petitioner and the magnitude of the charges, which have been proved against him, there is hardly any justification for reduction of penalty of removal from service. Therefore, I am of the view that the penalty of removal from service has rightly been imposed and there is no scope for reduction of the said penalty. Accordingly, I come to the conclusion that the termination of the petitioner is legal and justified and there is no justification for reduction of the penalty, in question. Therefore, I hold that the petitioner has proved this issue and as such, this issue is decided in favour of the respondent and against the petitioner.

Relief :

7. Keeping my findings on the aforesaid issue in view, I hold that the termination of the petitioner is legal and justified and as such, the petitioner is not entitled to any relief. Accordingly, this reference is decided against the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of costs, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today, the 1st June, 1994.

Seal.

B. S. CHAUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. 59 of 1992.

Instituted on 20-8-1992.

Decided on 27-6-1994.

Shri Chaman Singh S/o Shri Sagar, Village Pcla, P.O. Dehenga, Tehsil Churah, District Chamba ..Petitioner.

Versus

Assistant Engineer, Irrigation and Public Health Division, Losi, District Chamba ..Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner Shri T. R. Bhardwaj, AR

For respondent *Ex-parte*.

AWARD

Through this reference, the State Government has referred the present dispute regarding the termination of the services of the petitioner Shri Chaman Singh, for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent in 1981 as Beldar on daily wages and since then he had been working continuously till 1986 when his services were terminated by the respondent without any notice and compensation. Thus, the petitioner has stated that his termination is illegal and unjustified and he be re-instated with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner was not terminated, but, he had abandoned the job himself. Apart from this, it is stated that the petitioner had not worked for 240 days in any calendar year and as such he is not entitled to any relief.

4. On the aforesaid pleadings of the parties, my learned predecessor had framed the following issues:—

1. Whether the termination of the petitioner by the respondents is legal and justified? OPR.
2. Whether the petitioner abandoned the job on his own as alleged? OPR.
3. Relief.

5. I have heard the representative of the petitioner and have gone through the record. However, after the evidence of the petitioner was recorded, no one had appeared for the respondent on 19-5-1994 and as such, the respondent was proceeded against *ex-parte*. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under:—

FINDINGS

Issue No.1.	Yes.
Issue No.2.	Yes.
Relief.	Reference answered against petitioner.

REASONS FOR DECISION

Issue No :

The perusal of the statement of working days, which has been filed by the respondent with its reply would go to show that in 1982, the petitioner had worked for 70 days, while in 1983, he had worked 146 days and in 1984, he had worked for 77 days. It is further evident from the said statement that in 1985, and in 1986, the petitioner had not worked even for a single day in 1987 he had worked for three days and in 1988 till May, 1988, he had worked for 17 days. I am inclined to believe the contents of this statement, especially, when the petitioner while appearing as his own witness has got contradicted the contents of this statement nor he has stated that he had worked for more than 240 days within the period of twelve calendar months preceding the date of his termination. Therefore, it became quite clear that the petitioner had not worked for 240 days within twelve calendar months prior to his termination. Under section 25-F of the Industrial Disputes Act, 1947, it is provided that a workman who has rendered continuous service of one year shall not be terminated unless he is served with one month's notice or is paid one month's wages in lieu thereof and is also paid compensation. Section 25-B of the Industrial Disputes Act, 1947 defines one year continuous service. It provides that a workman who has continuously worked for 240 days during a calendar year shall

be deemed to have rendered one year continuous service. Thus, for obtaining relief under section 25-F supra, it is essential that a workman must have rendered one year continuous service. Apparently, in the case in hand, the petitioner has failed to show that he had rendered one year continuous service prior to the date of his termination. Therefore, it can straight away be held that the petitioner is not entitled to any relief under section 25-F of the Industrial Disputes Act, 1947. Thus it cannot be held that the termination of the petitioner is illegal and unjustified. Accordingly, this issue is decided in favour of the respondent and against the petitioner.

AWARD

Through this reference, the state Government has referred the dispute regarding the termination of the services of the petitioner Shri Hoshier Singh, for determination by this Court.

2. The case of the petitioner is that he had been employed as Helper by the respondent-management on 19-7-1989 and subsequently, he was made machine-man. It is stated that on 27-4-1991, the petitioner had met with an accident while operating the machine as a result of which four fingers of his left hand had been crushed and as such, he remained admitted in the hospital. Subsequently, when the petitioner came back from hospital to join his duty, the respondent did not allow him to join his duties and told him that his services stood terminated. It is further stated that the petitioner had continuously worked for 22 months prior to his termination and as such, the termination, in question, is illegal and unjustified because the respondent has neither served any notice on the petitioner nor any compensation was paid to him. Thus, the petitioner has stated that the termination be set aside and he be re-instated with back wages.

3. On the other hand, the respondent is *ex parte* because despite knowledge of the date of hearing, the respondent failed to appear in the court on 17-5-1994 and as such, he was proceeded against *ex parte*.

4. In support of his *ex parte* evidence the petitioner has examined himself and has stated that the petitioner was employed by the respondent on 19-7-1989, and there after he had been continuously in service of the respondent till 27-4-1991, when he met with an accident while operating the machine. The petitioner has further deposed that as a result of the said accident, four fingers of his left hand had been crushed and he remained admitted in the hospital due to the said accident and subsequently, when he came to join his duty, he was not allowed to join the same. The petitioner has further deposed that he was not served with any notice nor any compensation was paid to him.

5. The scrutiny of the aforesaid evidence on record would go to show that the petitioner had rendered more than one year continuous service prior to his termination and as such, his services could have not been terminated without notice or compensation. admittedly as is evident from the aforesaid *ex parte* evidence on record, neither any notice was served upon the petitioner nor any compensation was paid to him. Section 25-F of the Industrial Disputes Act, 1947 requires that services of a workman who has rendered more than one year continuous service cannot be terminated unless he has been served with a notice of one month or he has been paid one month's wages in lieu thereof and he has also been paid compensation. The said provision of Section 25-F of the Industrial Disputes Act, 1947 is mandatory. Evidently, in the case in hand, compliance of Section 25-F *ibid* has not been made and as such, the termination, in question, is illegal and unjustified. Accordingly, I hold that the termination, in question, is illegal and unjustified and petitioner is entitled to reinstatement with full back wages. As such, the respondent is ordered to take back the petitioner as Machine-man and to pay him full back wages except the period of illness which will be treated as leave admissible under rules, which rules were applicable to the petitioner at the relevant time. As such, the reference is answered in favour of the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the open Court today the 27th June, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No 1/1994

Instituted on : 20-1-1994

Decided on : 23-6-1994

Shri Hoshier Singh s/o Shri Pratap Singh, Village Samkar, P.O. Dhameta, Tehsil Jawali, District Kangra, Himachal Pradesh. Petitioner.

Versus

Shri Phool Kumar Ahuja, M/s Classical Rubber Products Pvt. Ltd., Surajpur Mohtli, District Kangra, Himachal Pradesh. Respondent.

Defence under Section of the Industrial Disputes Act, 1974.

For petitioner : Shri T. R. Bhardwaj, AR.

For respondent : *Ex-parte*.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla,
Camp Court Dalhousie.

Announced in the Open Court today the 23rd June, 1994.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Relief : Reference answered against the
petitioners.

Reference No. : 111 of 1991

Instituted on : 4-1-1991

Decided on : 12-12-1994

S/Shri Radha Kishan, Baban Parasad, Ram Parsad,
Rama Kant Yadav and Sharma Nand .. Petitioner

Versus

Management of M/s Thirani Chemical Ltd.,
Paonta-Sahib, District Sirmaur, Himachal Pradesh.
.. Respondent

Reference under section 10 of the Industrial Dispute
Act, 1947.

For petitioners : None.

For respondent : Shri S.D. Mohan, AR.

AWARD

Through this reference, the State Government has referred the dispute concerning the dismissal of S/Shri Radha Kishan, Baban Parasad, Ram Parsad, Rama Kant Yadav and Sharma Nand, hereinafter referred to as "Petitioners", for determination by this Court.

2. The case of the petitioners is that they had been working as Process Operators in the respondent factory and on 2-12-1985, the respondent had dismissed them from service without holding any enquiry. Thus, it is alleged that the dismissal of the petitioners is illegal and unjustified and same be set-aside and the petitioners be re-instated with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioners on the ground that the petitioner were guilty of misconduct and they had been charge-sheeted for the misconduct. It is further stated that after the petitioners had denied the charges, domestic enquiry was held against them *ex parte* because the petitioners had declined to appear before the Inquiry Officer despite the fact that they were duly served. Thus, it is stated that the enquiry against the petitioners was held in a proper and legal manner and the Inquiry Officer had held the petitioners guilty of the misconduct. It is also stated that on the basis of the findings of the Inquiry Officer and also keeping in view the past record of the petitioners, the petitioners were dismissed from service. As such, it is stated that the petitioners have been rightly dismissed and dismissal of the petitioners is legal and justified.

4. On the aforesaid pleadings of the parties, following issues were framed :—

1. Whether the dismissal of the petitioners S/Shri Radha Kishan, Baban Parasad, Ram Parsad, Rama Kant Yadav and Sharma Nand is illegal and unjustified ?

2. Relief.

5. I have heard the representative of the respondent and have gone through the evidence, which has been led by the respondent. However, on 3-12-1994, for which date the petitioners had been given last opportunity to adduce their evidence, neither the petitioners were present nor their representative had appeared. As such, there was no alternative, but, to close the evidence of the petitioners. Thus, on the basis of the arguments, which have been addressed by the representative of the respondent and the evidence which has been led by the respondent, my findings on the aforesaid issues are as follows :—

FINDINGS

Issue No : 1 No

REASONS FOR DECISION

Issue No. 1 :

6. Evidently, the onus of this issue was upon the petitioners and despite the fact that the petitioners were given sufficient opportunity to lead their evidence, the petitioners have failed to lead evidence in support of their claim to the effect that their dismissal is illegal and unjustified. Therefore, the petitioners have failed to prove this issue. On the other hand, the respondent has examined one Shri J. C. Sagwal (RW-1) and has led in evidence copies of all the relevant record regarding the domestic enquiry which was held against the petitioners. I have scrutinized the said evidence and am satisfied that the petitioners were duly served by the Inquiry Officer, but, they had not appeared despite service and as such, *ex parte* enquiry was held by the Inquiry Officer against the petitioners. Further, it is evident from the said evidence that the Inquiry Officer had held the petitioners guilty of the misconduct and on the basis of the findings of the Inquiry Officer and the past conduct of the petitioners, the respondent had dismissed the petitioners from service. Therefore, it can clearly be held on the basis of the evidence which has been led by the respondent that the enquiry against the petitioners was held in a legal and proper manner and the Inquiry Officer has rightly held them guilty of misconduct. Similarly, keeping in view the magnitude of the misconduct, in question, coupled with past conduct of the petitioners, the penalty of dismissal also appears to be justified. Therefore, I come to the conclusion that the petitioners have failed to prove this issue. Accordingly, this issue is decided against the petitioners.

Relief :

As a result of my findings on Issue No. 1 *supra*, I hold that the dismissal of the petitioners is legal and justified. As such, the petitioners are not entitled to any relief. Accordingly, the reference is answered against the petitioners and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, a free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 12th
December, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B.S. Chouhan, Presiding Officer
Labour Court, Himachal Pradesh, Shimla.

Reference No : 28 of 1993.

Instituted on : 3-2-1993.

Decided on : 3-8-1994

Shri Ram Singh S/o Shri Sanpuran Singh C/o Shri
J.C. Bhardwaj, Saproon, Solan .. Petitioner.

Versus

M/s Pannvi Tissues Ltd., Barotiwala, District Solan,
Himachal Pradesh .. Respondent.

Reference under Section 10 of the Industrial Disputes
Act, 1947.

For petitioner : Shri J. C. Bhardwaj, AR

For respondent : Shri V. K. Gupta, AR

AWARD

The state Government has referred the dispute regarding the termination of the petitioner Shri Ram Singh for adjudication by this Court.

2. The case of the petitioner is that he was employed by the respondent on 13-10-1987 as helper and thereafter, he served continuously till 5-9-1991 after which date he remained under treatment in Government Hospital, Kalka and subsequently, when he came to join his duty on 19-10-1991, he was not allowed by the respondent to join his duty. Thereafter, he had approached the Conciliation Officer concerned and despite intervention by the Conciliation Officer, the management did not agree to take him back. Thus, the petitioner has stated that his termination is illegal and unjustified and he be ordered to be taken back with back wages.

3. On the other hand, the respondent-management as contested the claim aforesaid of the petitioner on the ground that the petitioner remained absent from duty *w.e.f.* 6-9-1991 and despite letter dated 29-10-1991, the petitioner did not report for duty. Thus, the respondent has stated that the petitioner was on rolls of the respondent till 11-12-1992 and when he refused to join back his duty, his name was struck off from the rolls of the respondent and he was treated to have abandoned the job. Thus, it is stated that the petitioner is not entitled to any relief.

4. On the aforesaid pleadings of the parties, my learned predecessor had framed the following issues :—

1. Whether the termination of the petitioner is illegal and unjustified ? OPP.
2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereafter, my findings on the aforesaid issues are as under :—

FINDINGS

Issue No : 1 Yes

Relief : Reference answered in favour of the petitioner.

REASONS FOR DECISION

Issue No. 1 :

6. The relevant provision of law for deciding the present case is Section 25-F of the Industrial Disputes Act, 1947. This section provides that no workman who has rendered not less than one year continuous service shall be terminated by the management unless he is served with thirty days notice of termination or is paid wages in lieu of such notice. It is further provided that such workman shall also be entitled to compensation on the basis of length of his service which will be reckoned according to the provisions of said section of law. The provisions of Section 25-F *supra* are mandatory and violation thereof would render the termination illegal.

7. Now, in the present case, it has to be seen as to how far the respondent has complied with the aforesaid provisions of Section 25-F of the Industrial Disputes Act, 1947. The evidence on record would clearly go to show that the respondent has not complied with, at all, the aforesaid provisions of Section 25-F of the Industrial Disputes Act, 1947. There is no denying the fact that the petitioner in this case had rendered more than one year continuous service prior to 6-9-1991. Thus, the petitioner is entitled to the protection of Section 25- *supra*. The respondent has taken the plea that after 5-9-1991, the petitioner remained absent and subsequently, he had abandoned the job. I have considered the said plea of the respondent and am of the view that the same is neither convincing nor plausible because had the petitioner abandoned the job himself, then, there was no occasion for him to raise the present dispute. In fact, the evidence

on record would go to show that the petitioner remained ill and subsequently, when he came to join his duty, he was not allowed to join the same. To this effect, I am inclined to believe the version deposed by the petitioner because the same is quite plausible and convincing. Further the stand taken by the respondent to the effect that the petitioner had abandoned his services, is not borne out of the evidence on record. In fact, the respondent has taken a novel and strange plea to the effect that till the date of conciliation, the petitioner was absent from duty and after conciliation, he had abandoned the services himself. Apparently, this plea of the respondent is believed by the facts and circumstances of the case because had the petitioner been not interested in joining his duty, there was hardly any occasion for him to raise the dispute before the conciliation officer. Thus, instead of complying with the provisions of section 25-F of the Industrial Disputes Act, 1947, the respondent has tried to defeat the claim of the petitioner by circumventing the said provisions of section 25-F of the Industrial Disputes Act, 1947.

8. For the reasons stated above, I come to the conclusion that the respondent had terminated the services of the petitioner in contravention of the provision of section 25-F of the Industrial Disputes Act, 1947 and as such, the said termination is illegal and unjustified. Accordingly, I hold that the petitioner has proved this issue. As such, this issue is decided in favour of the petitioner.

RELIEF

9. Keeping my findings on the aforesaid issue in view, I hold that the termination of the petitioner is illegal and unjustified. Accordingly, the termination, in question, is set-aside and the petitioner is re-instated with continuity of service and with back wages, which are assessed at Rs. 10,000/-. As such, the reference is answered in favour of the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-171002, for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to the parties, if applied for, free of cost. The file after its completion be consigned to the record room.

Announced in the open Court today the 3rd August, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer.

Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref.-21/91.

Gabrial Employees Union

.. Petitioner.

Versus

M/s Gabrial India Ltd., Parwanoo.

.. Respondent.

16-12-1994

Shri Vinod Malhotra, General Secretary of the Workers Union with Shri J. C. Bhardwaj, A. R. for the petitioners.

Shri Balwinder Singh, Sr. Admn. Officer with Shri V. K. Gupta, A.R. for respondent.

AWARD

As per statements of the parties and their representatives placed on record, the dispute, in question, stands settled. According to the settlement, the management has agreed to account for the entire period, in question *i.e. w.e.f.* 1-7-1990 to 5-9-1991, towards continuity of service of the workers concerned. Apart from this the management has also agreed to pay full wages to all the concerned workers for the period from 16-7-1990 to 31-7-1990 on

the other hand, the workers have agreed to accept 25% for each day for the period from 1-7-1990 to 15-7-1990 and have given up their claim with respect to the remaining wages for the said period. Therefore in terms of the said settlement, the present dispute comes to an end. Accordingly, the reference stands disposed of on the basis of this settlement. A copy of this award be sent to the Government of Himachal Pradesh for publication. A copy of this award be supplied to the parties, free of cost, if applied for. The file be consigned to record room after its completion.

Announced in the Open Court today the 16th December, 1994 in the presence of the parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref.-137/93

Susheel Kumar

Petitioner.

Vs.

M/s Prontos Ltd., Parwanoo

Respondent.

2-12-1994

Shri Susheel Kumar, petitioner in person.
Shri D. K. Soi, AR for respondent.

AWARD

As per statements of the parties placed on record the dispute, in question, stands settled. Accordingly to the settlement, the respondent has paid a sum of Rs. 10,000/- (Ten Thousand) only to the petitioner today in the Court, in cash, in lieu of entire claim of the petitioner which he has set up in the present reference. Apart from this, the management has also paid a sum of Rs. 994.10 paise to the petitioner on account of earned wages for the period from 1-3-1993 to 19-3-1993 and also a sum of Rs. 1721.25 paise on account of bonus for years 1992-93. The petitioner has, thus, given up his entire claim of re-instatement etc. in lieu of the said settlement. As such, the dispute comes to an end. Therefore, the reference stands disposed of on the basis of this settlement. A copy of this award be sent to the State Government for publication in accordance with law. The record of this case be consigned to the record room.

Announced in the Open Court today the 2nd December, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-86/89-

Nand Kishore

Petitioner.

Vs.

M/s Jai Mata Rolled Glass (P) Ltd. Tipra, Barotiwala,
District Solan, Himachal Pradesh

Respondent.

20-7-1994

Shri A. K. Sharma, AR for petitioner.

Shri V. K. Gupta, AR for the respondent.

AWARD

As per statements of the representatives of the parties

placed on record, the dispute in question stands settled. According to the settlement, the respondent management has agreed to pay a sum of Rs. 5754/- to the petitioner Shri Nand Kishore in lieu of compensation back wages and unpaid wages and in turn, the petitioner has given up his entire claim which he has set up in the present reference including re-instatement. Accordingly, the reference stands disposed of on the basis of the said settlement. Let a copy of this award be sent to the Government of Himachal Pradesh, Shimla for its due publication in the official gazettee i. e. Himachal Pradesh Rajpatra in accordance with law. The record of this file be consigned to the record room after its completion.

Announced in the Open Court today the 20th July, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh Shimla

Ref.-127/93

Ramesh Chand

Petitioner.

Vs.

M/s Shivnath Knitpolyfej (P) Ltd., Melhotpur

Respondent.

23-7-1994

Shri P. L. Bery, AR for petitioner.

Shri R. L. Kaith, AR for respondent.

AWARD

As per statement of Shri P. L. Bery, AR of the petitioner placed on record, the petitioner does not seem to be interested in the present reference and as such, the reference is allowed to be dismissed as withdrawn. Accordingly, the reference is dismissed as withdrawn. A copy of this order be sent to the Government of Himachal Pradesh, Shimla for its due publication in the Himachal Pradesh Rajpatra in accordance with law. The file be consigned to the record room after its completion.

Announced in the Open Court today the 23rd July, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-155/90-

Ram Chander

Petitioner.

Vs.

Municipal Committee, Nahan

Respondent.

20-8-1994

Shri A. K. Gupta, Advocate for petitioner.

Shri Ali Sher, AR for respondent.

AWARD

As per statements of the representatives of the parties placed on record, the petitioner Shri Ram Chander has already been taken back by the respondent as daily wages heldar. The petitioner has given up his claim in respect of back wages to the tune of Rs. 1500/-. However,

the respondent has agreed to protect the past service of the petitioner for the purposes of seniority. Therefore, the present reference does not require any further adjudication and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 20th August, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-73/92-

Joint Action Karamchari Sangh .. Petitioner.

Vs.

Managing Director, The Kangra Central Co-operative
Bank Ltd., Dharamshala .. Respondent.

18-7-1994

Shri Desh Raj Dhiman, for petitioner.

Shri S. N. Kaishla, for the respondent.

AWARD

As per statements of the parties representatives placed on record, the parties have arrived at amicable settlement regarding the demands of the workers which are subject matter of the present reference. The copies of the settlements have been placed on record which are Ex. PA and Ex. PB. Now, in view of this settlement, the workers' Union does not want any relief in the present reference and as such, the reference is accordingly disposed of on the basis of the said settlement. Let a copy of this award be sent to the Government of Himachal Pradesh Shimla-171002 for its due publication in the official gazette i.e. Himachal Pradesh Rajpatra in accordance with law and the record thereof to be consigned to the record room after due completion.

Announced in this 18th day of July, 1994 in Open Court at Shimla.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-31/92-

General Secretary, Himachal Milk Plant Employees
Union .. Petitioner.

Vs.

M/s Himachal Milk Plant (P) Ltd., Paonta Sahib
.. Respondent.

2-7-1994

None for the petitioners.

Shri S. D. Mohan and Shri Pawan Rastogi, AR
for the respondents.

AWARD

No one has appeared for the petitioners nor it has been

possible in the past despite repeated notices to effect service on any of the office bearers of the petitioners. The respondent has produced one Shri Pala Ram who is one of the workers in the Milk Plant of the respondent and he has stated that there does not exist any union of the workers nor the workers have any demands because the same have now been met with. Statement of Shri Pala Ram has separately been recorded to this effect which is place on record. Shri S. D. Mohan, representative of the respondent states that office bearers of the petitioner union have since left the employment of the respondent and the management has already met with most of the demands in question, and the workers who are at present working in the Milk Plant, do not have any demands. Under these circumstances, there is no other course except to dispose of the present reference on the basis of the statements aforesaid. Accordingly, the reference is disposed of on the basis of the statements aforesaid. Let a copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the official gazette i.e. Himachal Pradesh Rajpatra in accordance with law and the file be consigned to the record room.

Announced in this 2nd day of July, 1994 in Open Court at Shimla.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer
Labour Court, Himachal Pradesh, Shimla

Ref-171/87-

Village Paper Mazdoor Sangh .. Petitioner.

Vs.

M/s Village Papers Ltd., Mehastpur District Una,
Himachal Pradesh .. Respondent.

26-7-1994

Shri Daljeet Singh, secretary of the workers Union with
Shri Ravi Kant, General Secretary.

Shri P. L. Bery, AR for all the workers.

Shri Manmohan Singh, Managing Director of respondent management.

AWARD

As per statements of the parties placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent management has agreed to take back all the 17 workers of this case in a phased manner. The first four workers will be taken back by the management immediately within 15 days from today i.e. on or before 10-8-1994. The next four workers will be taken back within 15 days from 26-9-1994 i.e. on or before 11-10-1994 the next four workers will be then back within 15 days from 26-11-1994 i.e. on or before 12-12-1994 and the remaining five workers will be taken back within 15 days from 26-1-1995 i.e. on or before 20-2-1995. In order to call back the workers in phased manner, the management will issue the call letters and will send the same by registered post to the workers on their correct addresses. A copy of such letter will be displayed on the notice board of the factory. In case any worker fails to report for duty within the scheduled date, the management will have right to send call letters to the next four workers and such call letters will also be sent in the same manner and a copy thereof will also be displayed on the notice board of the factory. The worker who will fails to report for duty within the scheduled date, will forfeit his right to re-employment.

However, if a worker is not in a position to join within the date due to illness or otherwise then the management will consider his request for employment and his offer will remain open till he is recovered from the illness or is in a position to join the duty. But, each worker will have to adduce cogent proof of illness or otherwise. However, the worker who will fail to report for duty within the due date, will be entitled to compensation of Rs. 8000/- only in lieu of past wages and employment etc. Each worker who will join duty in the manner mentioned above, will be entitled to compensation of Rs. 5000/-. However, if any worker does not wish to join duty, he will be entitled to a compensation of Rs. 8000/-. The workers have also agreed to part with 6% of the amount out of their compensation, towards payment of union fund and this will be deducted by the management at the time of payment and will be sent to General Secretary, Rashtriya Mazdoor Sangh, New Delhi by draft. In case any of the workers does not turn up either for joining or receiving the payment of compensation, then the amount of compensation of Rs. 8000/- will be remitted to him by bank draft or money order on his correct address, after the date of his joining has expired. As such, the present reference stands disposed of on the basis of the said settlement.

A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 26th July, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh Shimla.

Ref-54/90 -

Som Nath .. Petitioner.

Versus

M/s Jai Mata Rolled Glass Ltd., Tipra Barotiwala .. Respondent.

3-8-1994

Petitioner with Shri A. K. Sharma, AR.

S/shri K. S. Baniyal and V. K. Gupta. ARs for respondent.

AWARD

As per statements of the parties and their representatives placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent has agreed to pay a sum of Rs. 5000/- to the petitioner in lieu of the claim which has been set up by the petitioner in the present reference and also in full and final settlement and, in turn, the petitioner has given up the entire claim, which he has set up in the present reference. Apart from this, the management has agreed to pay a sum of Rs. 405/- to the petitioner on account of his un-paid wages. As such, the respondent has agreed to pay a total sum of Rs. 5,405/- to the petitioner within seven days from today i.e. on or before 10-8-1994. In view of this, the dispute, in question, does not survive and the same comes to an end. Accordingly, the present reference is disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication

in the Himachal Pradesh Rajpatra. A copy of this order be supplied to each of the parties. The file be consigned to the record room after its completion.

Announced in the Open Court today 3rd August, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer
Labour Court, Himachal Pradesh, Shimla

Ref-56/90-

Jai Singh

.. Petitioner.

Versus

M/s Jai Mata Rolled Glass (P) Ltd., Tipra, Barotiwala .. Respondent.

27-8-1994

Shri A. K. Sharma, AR for petitioner with petitioner.

S/shri K. S. Baniyal and V. K. Gupta, ARs for respondent.

AWARD

As per statements of the representatives of the parties placed on record, the parties have arrived at amicable settlement. According to which the respondent management has agreed to take back the petitioner Shri Jai Singh on re-employment basis on the same wages which his co-worker Shri Gurnam Singh is getting at present except the benefit of settlement dated 1-7-1994. Apart from this, the management has also agreed to assign the same duties to the petitioner which he was discharging prior to his termination. Further, the management has also agreed to pay a sum of Rs. 390/- to the petitioner on account of un-paid wages. In turn, the petitioner has given up all his claims which he has set up in the present reference. The petitioner will be entitled to the benefit of the settlement aforesaid only if he joins his duty in the respondent factory on or before 5-9-1994. In view of this, the dispute comes to an end. Accordingly, the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this order be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 27th August, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Ref-44/90-

Shri Mewa Singh

.. Petitioner.

Versus

M/s Jai Mata Rolled Glass (P) Ltd. Barotiwala

.. Respondent.

Shrk A. K. Sharma, AR with petitioner.

S/shri V. K. Gupta, K. S. Baniyal, ARs. for respondent.

AWARD

As per statements of the parties and their representatives placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent has agreed to pay a sum of Rs. 5,000/- to the petitioner in lieu of the claim which has been set-up by the petitioner in the present reference and also full and final settlement and, in turn, the petitioner has given up the entire claim, which he has set up in the present reference. Apart from this, the management has agreed to pay a sum of Rs. 441/- to the petitioner on account of his unpaid wages. As such, the respondent has agreed to pay a total sum of Rs. 5441/- to the petitioner within seven days from today i.e. on or before 23-8-1994. In view of this, the dispute, in question, does not survive and the same comes to an end. Accordingly, the present reference is disposed of on the basis of the settlement aforesaid. A copy of this order be sent to the Government of Himachal Pradesh, Shimla-2 for its publication in the Himachal Pradesh Rajpatra. A copy of this order be supplied to the parties, free of costs, if applied for. The file be consigned to the record room after its completion.

Announced in the Open Court today the 16th August, 1994.

Seal.

B. S. CHOUHAN,

*Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.*

In the Court of Shri B. S. Chouhan, presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-83/89-

Shri Sarwan Singh .. Petitioner.

Versus

M/s Jai Mata Rolled Glass (P) Ltd. Tipra, Barotiwala
.. Respondent.

3-8-1994

Shri Sarwan Singh, petitioner with Shri A. K. Sharma,
AR.

S/shri K. S. Baniyal and V. K. Gupta, ARs of the
respondent.

AWARD

As per statements of the parties and their representatives placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent management has agreed to take back the petitioner Shri Sarwan Singh on the same work, which he had been doing in the past, but, on re-employment basis. A part from this, respondent-management has agreed to pay the petitioner the same wages, which Shri Ram Nath a co-worker of the petitioner is getting at present. Further the respondent has also agreed to pay a sum of Rs. 699/- to the petitioner on account of his unpaid wages. It has further been agreed that the petitioner will report for duty within seven days from today i.e. on or before 10-8-1994, failing which the petitioner will not be entitled to the benefit of this settlement. Further, after the petitioner joins his duty, the respondent will pay the unpaid wages of Rs. 699/- to the petitioner. As a result

of the said settlement, the petitioner has given up his entire claim which he has set-up in the present reference. In view of this, the dispute, in question, does not survive and the same comes to an end. Therefore, the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh for publication. A copy of this award be supplied to the parties. File after completion be consigned to the record room.

Announced in the Open Court today the 3rd August, 1994.

Seal.

B. S. CHOUHAN,
*Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.*

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-80 '89-

Shamsher Singh .. Petitioner.

Versus

M/s Jai Mata Rolled Glass (P) Ltd., Barotiwala
.. Respondent.

16-8 1994

Shri A. K. Sharma, AR with petitioner.

S/shri V. K. Gupta, K.S. Baniyal, ARs for respondent.

AWARD

As per statements of the parties and their representatives placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent management has agreed to take back the petitioner Shri Shamsher Singh on the same work, which he had been doing in the past, but, on re-employment basis. Apart from this, respondent-management has agreed to pay the petitioner the same wages, which a co-worker petitioner is getting at present. Further, the respondent has also agreed to pay a sum of Rs. 330/- to the petitioner on account of this unpaid wages. It has further been agreed that the petitioner will report for duty within seven days from today i.e. on or before 23-8-1994, failing which the petitioner will not be entitled to the benefit of this settlement. Further, after the petitioner joins his duty the respondent will pay the unpaid wages of Rs. 330/- to the petitioner. As a result of the said settlement, the petitioners has given up his entire claim which he has set-up in the present reference. In view of this, the dispute, in question, does not survive and the same comes to an end. Therefore, the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied. The file after its completion be consigned to the record room.

Announced in the Open Court today the 16th August, 1994.

Seal.

B. S. CHOUHAN,
*Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.*

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-39/90-

Mukhtiyar Singh .. Petitioner.

M's Jai Mata Rolled Glass (P) Ltd., Barotiwala
.. Respondent.

Announced in the Open Court today the 25th
August, 1994.

16-8-1994

Shri A.K. Sharma, AR for, petitioner.
S/shri K. S. Baniyal, AR, with V. K. Gupta, AR
for respondent.

AWARD

As per statements of the parties and their representatives placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent-management has agreed to take back the petitioner Shri Mukhtiyar Singh on the same work, which he had been doing in the past, but, on re-employment basis. Apart from this, respondent-management has agreed to pay the petitioner the same wages, which a co-worker of the petitioner is getting at present. Further, the respondent has also agreed to pay a sum of Rs. 426/- to the petitioner on account of his unpaid wages. It has further been agreed that the petitioner will report for duty within seven days from today i.e. on or before 23-8-1994, failing which the petitioner not be entitled to the benefit of this settlement. Further, after the petitioner joins his duty, the respondent will pay the unpaid wages of Rs. 426/- to the petitioner. As a result of the said settlement, the petitioner has given up his entire claim which he has set-up in the present reference. In view of this, the dispute, in question, does not survive and the same comes to an end. Therefore, the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh for publication. A copy of this award be supplied to the parties, free of cost, if applied for. The file after completion be consigned to the record room.

Announced in the Open Court today the 16th
August, 1994.

Seal. B. S. CHOJHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-16/93-

Hari Saran ..Petitioner.

Versus

M's Rohit Cables (P) Ltd., Parwanoo
.. Respondent.

25-8-1994

Shri J. C. Bhardwaj, AR for the petitioner.

Shri A.K. Sharma, AR for the respondent.

AWARD

As per statements of the representatives of the parties placed on record, the parties have arrived at amicable settlement, according to which the respondent management has agreed to pay a sum of Rs. 1,500/- to the petitioner Shri Saran. On the other hand, the petitioner Shri Hari Saran has given up all his claims, which he has set up in the present reference. The payment of the amount will be made by the management within seven days from today, failing which the petitioner will be entitled to the interest @ 18% p.a. As such, the dispute, in question, comes to an end in view of the settlement aforesaid. Accordingly, the reference stands disposed of as a result of the said settlement. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2, for its due publication in the Himachal Pradesh Raj-patra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Seal.

B. S. CHOJHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer
Labour Court, Himachal Pradesh, Shimla

Reference No. 53 of 1993

Instituted on 22-4-1993

Decided on 6-9-1994

Shri Sunit Kumar and others c/o Collector Forest
Settlement, Hamirpur ..Petitioners.

Versus

Collector, Forests Settlement, Hamirpur, Himachal
Pradesh. ..Respondent.

Reference under Section 10 of the Industrial Disputes
Act, 1947.

For petitioners Shri J. C. Bhardwaj, AR.

For respondent Shri S. N. Nishpakshi, AR.

AWARD

Through this reference, the State Government has referred the dispute with respect to the demand of the daily wages Class IV employees of the Respondent Collector, Forests Settlement, Hamirpur, for determination by this Court.

2. The case of the daily wages Class IV employees of the respondent, who are, hereinafter, referred to as 'petitioners', is that they were appointed on daily wages as Class IV workers against the vacant posts of chowkidars, Peons and Khalasies etc. in the years, 1988-89 with the assurance that they would be regularised in due course of time, but thereafter, neither they were regularised nor they have been paid wages according to the rates which have been approved by the Finance Department of the State Government. It is stated that the petitioners were initially appointed on daily wages on the rates which were fixed by the Deputy Commissioner, Hamirpur and at the time of their appointment, they were being paid Rs. 18/- per day, while the minimum wages of the beldars, at that time were Rs. 15/- per day. It is further stated that subsequently, the petitioners were paid only minimum wages of beldars instead of the Government daily wages rates, which have been fixed by the government in respect of the daily wages workers who were appointed against the posts of chowkidars, peons etc. Thus, the petitioners have raised a demand to the effect that they are entitled to the rates which have been approved by the Finance Department in respect of daily paid chowkidars, peons etc. It is also stated that the petitioners have been working as peons, chowkidars, khalasies etc. and as such, on the basis of 'equal pay for equal work', they are entitled to the said wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioners on the ground that the rates which have been approved by the Finance Department are applicable only to those daily wages workers who have been appointed through the Employment Exchange and prior approval of the Finance Department has been obtained for filling up the posts against which such workers have been appointed on daily wages. Thus, it is stated that since the petitioners were not appointed through the Employment Exchange nor the approval of the Finance Department was obtained for appointing them against the present posts on daily wages, they are not entitled to the said wages.

4. On the aforesaid pleadings of the parties, following issues were framed :—

1. Whether the demand, in question, of the petitioners for their wages is genuine and justified ? If so, to what relief the petitioners are entitled to ?

OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :—

FINDINGS

Issue No. 1 Yes.

Relief : Reference answered in favour of the petitioners.

REASONS FOR DECISION

Issue No. 1 :

6. The evidence on record would go to show that the petitioners have been working against the posts of peons, chowk-dar and khalasies etc. but, they are not being paid the daily rates, which have been fixed by the Finance Department in respect of these categories of Class IV workers, on the ground that neither the permission of the Finance Department was obtained before the petitioners were appointed nor the petitioners have been recruited through Employment Exchange. However, the respondent has admitted that all the seven petitioners except Shri Ranjit Singh, have been working since 1988-89 while Shri Ranjit Singh was appointed in January, 1991. It is also evident from the evidence on record that these petitioners have been doing the same job which is being done by the other Class IV workers, who have been appointed through Employment Exchange with the prior approval of the Finance Department. Evidently, though the petitioners have been working for the last 5—6 years except one Shri Ranjit Singh, but the respondent has not made any effort to fill up the said posts through Employment Exchange with the prior permission of the Finance Department. As a result of the said lapse of the respondent, the petitioners have been deprived of their right to the daily wages rates which have been fixed by the Finance Department because on the basis of the principle of "equal pay for equal work", the petitioners are entitled to the same wages which are being paid to their counter-parts who have been doing the same work which the petitioners have been doing. In this connection, a reference may be made to a recent pronouncement of the Hon'ble Supreme Court in writ petition No. 787 to 1987 titled "Shri Mool Raj Upadhaya v/s. The State of Himachal Pradesh and others" decided on 19-4-1994, in which it has been held that all daily wage/muster roll workers, whether skilled or un-skilled, who have not completed 10 years of service, with a minimum of 240 days in a calendar year, on December 31, 1993, shall be paid daily wages at the rates prescribed by the Government of Himachal Pradesh from time to time for daily wage employees falling in Class III and Class IV. In view of the said mandate of the Hon'ble Supreme Court, it is imperative upon the State Government to pay those daily wage rates to the petitioners which have been fixed by it in respect of its daily wage Class IV employees.

7. The crux of the aforesaid discussion is that the demand which has been raised by the petitioners for enhanced daily wages rates, which have been final by the Finance Department of the Himachal Government, is genuine and justified and the petitioners are entitled to the said rates of daily wages from the dates the same have been made applicable in case of other daily wages Class IV employees of the state Government. As such, the petitioners have proved this issue and accordingly, this issue is decided in favour of the petitioners.

Relief :

8. Keeping my findings on the aforesaid issue in view, I hold that the demand of the petitioners, which is a subject matter of the reference, in question, is genuine and justified and the petitioners are entitled to daily wages at the rates which have been fixed by the Finance Department of the Himachal Government. Accordingly, the reference is answered in favour of the petitioners and the same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 6th September, 1994.

Seal.

B. S. CHOUBHAN,

Presiding Officer,

Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Choubhan, Presiding Officer
Labour Court, Himachal Pradesh, Shimla

Reference No. 72 of 1992

Instituted on 29-8-1992

Decided on 29-11-1994

Ashwani Kumar, Village Takka, Tehsil and District Una, Himachal Pradesh .. Petitioner,

versus

Executive Engineer, HPSEB, Division Rakkar, District Una, Himachal Pradesh .. Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri Dhani Ram, AR.

For respondent : Shri S. K. Arora, AR.

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of the services of Shri Ashwani Kumar, hereinafter referred to as 'petitioner', for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent as beldar on daily wages on 25-7-1986 and thereafter, he worked continuously till 30-7-1988, when his services were terminated without any notice and compensation. Thus, the petitioner has alleged that his termination is illegal and the same be set aside and he be re-instated with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the termination of the petitioner is legal and justified because he was not entitled to protection of Section 25-F of the Industrial Disputes Act, 1947 as he had not worked for 240 days in any of the calendar years. Thus it is stated that the petitioner was terminated because there was no work for him.

5. On the aforesaid pleadings of the parties, following issues were framed :—

1. Whether the termination of the petitioner Shri Ashwani Kumar is illegal and unjustified ? If so, to what relief, the petitioner is entitled to ?

OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :—

FINDINGS

Issue No. 1 : Yes.

Relief : Termination set-aside. Petitioner re-instated with back wages.

REASONS FOR DECISION

Issue No. 1 :

6. It is admitted case of the respondent that the petitioner was terminated from service in the year 1988 and at the time of termination, he was not paid any compensation. The stand of the respondent is that the petitioner had not worked for 240 days in any of the calendar years since 1986 and as such, he was not entitled to the protection of Section 25-F of the Industrial Disputes Act, 1947. Thus, the only question which requires determination is as to whether the petitioner was entitled to the protection of Section 25-F of the Industrial Disputes Act, 1947 at the time of his termination or not. For this purpose, the case of the petitioner has to be examined in the light of the provisions of Section 25-F of the Industrial Disputes Act, 1947. Section 25-F of the Industrial Disputes Act, 1947 provides that no workman who has rendered one year continuous service shall be terminated except after the expiry of notice of thirty days or in lieu of notice, he shall be paid one month wages. Apart from this, it is mentioned in the said Section of law that such workman shall be paid compensation equivalent to fifteen days average wages in respect of every completed year of service. Section 25-B of the Industrial Disputes Act, 1947 provides that a workman who has actually worked for 240 days during a calendar year, shall be deemed to have completed one year continuous service. It is a settled proposition of law that the provisions of Section 25-F of the Industrial Disputes Act, 1947 are mandatory and non-compliance thereof would render the termination illegal. Thus, for the purpose of application of Section 25-F of the Industrial Disputes Act, 1947, it has first to be seen that as to whether the aggrieved workman has actually worked for 240 days within twelve calendar months preceding the date of his termination.

7. Adverting to the facts and circumstances of the case and the evidence on record, it can be held that the petitioner is entitled to the protection of Section 25-F of the Industrial Disputes Act, 1947 because it is quite clear from the statement of Shri T.R. Rattan, Assistant Executive Engineer (RW-1) that the petitioner had worked for 275 days during twelve calendar months preceding the date of his termination i.e. during the period from 1-6-1987 to 1-6-1988. As such, for the purpose of application of Section 25-F of the Industrial Disputes Act, 1947, a workman must have actually worked for 240 days during twelve calendar months preceding the date of his termination. In the case in hand, the petitioner had worked till 1-6-1988, as has been stated by Shri T.R. Rattan, aforesaid. Admittedly, the respondent has not complied with the mandatory provisions of Section 25-F *supra*, while terminating the services of the petitioner. Therefore, it can straight-away be held that the termination of the petitioner is illegal and unjustified and the petitioner is entitled to re-instatement with back wages. Accordingly, I hold that the petitioner has proved this

issue and as such, this issue is decided in favour of the petitioner.

Relief :

8. Keeping my findings on the aforesaid issue in view, I hold that the termination of the petitioner is illegal and unjustified and as such, the same is set-aside and the petitioner is ordered to be re-instated with back wages, which are assessed at Rs. 10,000. As such, the reference is answered in favour of the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-171002 for its publication in the Himachal Pradesh Rajpatra. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 29th November, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-77/91-

Chabra Tubes Products Worker Union

..Petitioner.

Versus

M/s Chabra Tubes Products, Jharmajri, District Solan

..Respondent.

23-9-1994

Shri J. C. Bhardwaj, AR for petitioners.

Shri T.C. Gautam, AR for respondent.

AWARD

As per statements of the representatives of the parties placed on record, the dispute, in question, stand settled as a result of the settlement, a copy of which is Ex. PA and is placed on record. Therefore, the dispute comes to an end. Accordingly, the reference stands disposed of as a result of the settlement, a copy of which is Ex. PA and is placed on record. Therefore, the dispute comes to an end. Accordingly, the reference stands disposed of as a result of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 23rd September, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-43/89-

Kewal Singh

..Petitioner.

Versus

M/s Himachal Fibers Ltd., Barotiwala

..Respondent.

2-9-1994

Shri J. C. Bhardwaj, AR for the petitioner.
Shri Kewal Singh, petitioner in person.
Shri V. K. Gupta, AR for the respondent.
Shri Kamal Bhanot, Chief Personnel
Manager, for the respondent.

AWARD

As per statements of the parties and their representatives placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent-management has agreed to take back the petitioner as Head Fitter on monthly gross wages of Rs. 2,500 within seven days from today i.e. on or before 9-9-1994. Apart from this, the respondent-management has also agreed to account for the entire past service of the petitioner including the period of absence till date, as continuity in service and the petitioner will be entitled to all benefits in respect of the said period except the wages in respect of the period of absence, regarding which the petitioner has given up his claim. In case the petitioner fails to join the duty on or before 9-9-1994, he would not be entitled to the benefit of this settlement. In view of this settlement, the dispute, in question, comes to an end. Accordingly, the present reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 2nd September, 1994.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. : 81 of 1989

Instituted on : 25-8-1989

Decided on : 16-8-1994

Shri Sadhu Singh c/o Shri A.K. Sharma
Pole Factory, Parwanoo ..Petitioner.

Versus

M/s Jai Mata Rolled Glass (P), Ltd., Tipra, Barotiwala,
District Solan. ..Respondent.

Reference under Section 10 of the Industrial Disputes
Act, 1947.

For petitioner : Shri A. K. Sharma, AR.
For respondent : Shri V. K. Gupta, AR.

AWARD

As per statements of the parties and their representatives placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent-management has agreed to take back the petitioner Shri Sadhu Singh on the same work, which he had been doing in the past, but, on re-employment basis. Apart from this, respondent-management has agreed to pay the petitioner the same wages, which a co-worker of the petitioner is getting at present. Further, the respondent has also agreed to pay a sum of Rs. 338/- to the petitioner on account of his unpaid wages. It has further been agreed that the petitioner will report for duty within seven days from today i.e. on or before 23-8-1994, failing which the petitioner will not be entitled to the benefit of this settlement. Further, after the petitioner joins his duty, the respondent will pay the unpaid wages of Rs. 338/- to the petitioner. As a result of the said settlement, the petitioner has given up his entire claim which he has set-up in the present reference. In view of this, the dispute, in question, does not survive and the same comes to an

end. Therefore, the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh for publication. The file be consigned to the record room after completion.

Announced in the Open Court today the 16th August, 1994.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-88/89-

Ram Lal Mehta ..Petitioner.

Versus

M's Jai Mata Rolled Glass Ltd., Tipra, Barotiwala
21-9-1994 ..Respondent.

Shri A. K. Sharma, AR for petitioner.
Shri V. K. Gupta, AR. for respondent.

AWARD

As per statements of the representatives of the parties placed on record, the parties have arrived at amicable settlement in respect of the present dispute. According to the settlement, a copy of which is Ex. PA and is placed on record, the petitioner has received a sum of Rs. 5,000/- from the respondent in lieu of full and final settlement of his claim, which he has set up in the present reference. Apart from this, the petitioner has also received a sum of Rs. 354/- from the respondent on account of unpaid wages. As such, in view of the said settlement, the petitioner has given up his claim which he has set-up in the present reference. Accordingly, the dispute comes to an end. Therefore, the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after completion be consigned to the record room.

Announced in the Open Court today the 21st September, 1994.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. 144 of 1993

Instituted on : 26-10-1993

Decided on : 27-9-1994

Shri Satnam Singh c/o Shri A. K. Sharma,
Shata Rai Sahib, Kaika, Ambala ..Petitioner.

Versus

M/s Abdul Hamid, Contractor, M/s Eicher Tractors,
Parwanoo ..Respondent.

Reference under Section 10 of the Industrial Disputes
Act, 1947.

For petitioner : Shri A. K. Sharma, AR.
For respondent : Sh. V. K. Gupta, AR.

AWARD

As per statements of the representatives of the parties, and the statement of the petitioner placed on record the parties have arrived at amicable settlement according to which the petitioner has accepted a sum of Rs. 1,400/- in lieu of his entire claim which he has set up in the present reference and out of the said amount of Rs. 14,00/- a sum of Rs. 1100/- has been paid today the petitioner in the court, while the remaining amount of Rs. 300/- will be paid tomorrow by the respondent and as such, the petitioner has given up the present claim on the basis of this settlement. Accordingly, the reference stands disposed of as a result of the said settlement. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to the parties, free of cost, if applied for. File after its completion be consigned to the record room.

Announced in the Open Court today the 27th September, 1994.

Seal. **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B.S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Ref.-7/92

Dilbagh Chand .. Petitioner.

Versus

Management, The Bir Co-operative Tea Factory, Bir,
Distt. Kangra, Himachal Pradesh .. Respondent.

24-9-1994

Shri Ajay Dogra AR. for petitioner.
Shri L.S. Mahant AR. for respondent.

AWARD

As per statements of the parties representatives placed on record, the parties have arrived at amicable settlement. According to the settlement, a copy of which is Ex. PA and is placed on record, the petitioner Shri Dilbagh Chand has been taken back by the respondent on the same job from which he had been terminated and in lieu of past wages the respondent has agreed to pay a sum of Rs. 20,000/- to the petitioner on or before 30-10-1994. Further, the petitioner is required to report for duty on 1-10-1994 as result of the said settlement. Accordingly, in view of the said settlement, the dispute comes to an end and the reference stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh Shimla for its publication in accordance with law. A copy of this award be supplied to each of the parties, if applied for, free of cost. The file after its completion be consigned to the record room.

Announced in the Open Court today the 24th September, 1994.

Seal. **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Ref.-1/93

Seal. .. Petitioner.

Versus

General Manager, Jai Parkash Associates Chamara

Project, Banikhet.

.. Respondent.

14-9-1994

Shri Balwan Singh, A. R. for the petitioner.
Shri S.D. Mohan, A. R. for respondent.

AWARD

As per statements of the representatives of the parties placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent management has paid a sum of Rs. 6,000/- to the petitioner. Apart from this, the respondent management has also paid all other legal dues of the petitioner to him. On turn, the petitioner has given up all his claim, which he has set up in the present reference. As such, the reference does not survive and the same comes to an end. Accordingly, the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication in the Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 14th September, 1994.

Seal. **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Ref-86/93-

Niranjan Singh .. Petitioner.

Versus

General Manager, Jai Parkash Associates, Chamara
Project, Banikhet. .. Respondent.

14-9-1994.

Shri Balwan Singh, A. R. for the petitioner.
Shri S. D. Mohan, A. R. for respondent.

AWARD

As per statements of the representatives of the parties placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent management has paid a sum of Rs. 6000/- to the petitioner. Apart from this, the respondent management has also paid all other legal dues of the petitioner to him. In turn, the petitioner has given up all his claim, which he has set up in the present reference. As such, the reference does not survive and the same comes to an end. Accordingly, the reference stands disposed of on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for publication in the Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 14th September 1994.

Seal. **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref.-71/93-

Rajeshwar Dubey .. Petitioner.

vs.

General Manager, Jai Parkash Associates Chamara
Project, Banikhet. .. Respondent.

14-9-1994:

Shri Balwan Singh, A.R. for the petitioner.
Shri S. D. Mohan A. R. for respondent.

AWARD

As per statements of the representatives of the parties placed on record, the parties have arrived at amicable settlement. According to the settlement the respondent management has paid a sum of Rs. 6000/- to the petitioner. Apart from this, the respondent management has also paid all other legal dues of the petitioner to him. In turn, the petitioner has given up all his claim, which he has set up in the present reference. As such, the reference does not survive and the same comes to an end. Accordingly, the reference stands disposed on the basis of the settlement aforesaid. A copy of this award be sent to the Government of Himachal Pradesh Shimla for its publication in the Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the open Court today the 14th September, 1994.

Seal.

B. S. CHOUHAN,

Presiding Officer,
Labour Court, H. P. Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer, Labour Court, Himachal Pradesh, Shimla

Ref.-109/92

Hans Raj

..Petitioner.

vs.

M/s Chamra Jal Vidyut Pariyojna, Stage-I.
(N. H. P. C.), Dalhousie, District Chamba, H. P.

11-11-1994:

PRESENT

NONE

AWARD

This order will determine the question as to whether present reference, which has been made by the State Government, is valid or not. This question for determination has cropped up as a result of the preliminary objection which the Respondent-management has raised during the proceedings of this reference, on the basis of the judgement dated 19-7-1993 of our Hon'ble High Court which has been passed in C. W. P. No. 132 of 1991 titled "National Hydroelectric Power Corporation Ltd., vs. State of Himachal Pradesh and others". In this judgement, our Hon'ble High Court has held while interpreting the provisions of Section 2 (a) (i) of the Industrial Disputes Act, 1947 that National Hydro electric Power Corporation is an authority of the Central Government and as such, it is only the Central Government which is the "appropriate government" in this case, to make a reference in respect of the Industrial dispute concerning Chamra Project. Though, general issues arising out of preliminary objections are to be disposed of alongwith other issues regarding the merits of the case, but, inevitable an exception has to be made in a case like the present one where the reference *prima facie* appears to be illegal and in case this objection is not decided at this stage, the adjudication of this reference would be an exercise in futility.

I have heard the representatives of the parties and have gone through the relevant provisions of law and also the

authority aforesaid of our Hon'ble High Court. The facts of the case mentioned above in which the law aforesaid has been laid down by our Hon'ble Court would go to show that National Hydroelectric Power Corporation i.e. Chamra Project, was one of the parties to the dispute which dispute was decided by the Court against the said Project and subsequently, when the writ concerning the said decision of this Court was taken up by the Hon'ble High Court for decision, the Hon'ble High Court came to the conclusion that since the National Hydroelectric Power Corporation was an authority i.e. an undertaking of the Government of India, the State of Himachal Pradesh was not competent to make reference concerning the industrial dispute relating to the said project. In the case in hand, the respondent is also National Hydroelectric Power Corporation and the dispute relate to the service matter of the employees of said project. Therefore, in the wake of the aforesaid interpretation of Section 2 (a) (i) of the Industrial Disputes Act, 1947 which has been made by our Hon'ble High Court, the present reference, which has been made by the State of Himachal Pradesh is not legal because the same has been made without any jurisdiction and as such, this Court is not competent to adjudicate the present dispute. Accordingly, I hold that the present reference is illegal being without jurisdiction and as such, this Court is not competent to adjudicate the dispute, in question. The parties, if they so desire, may approach the Central Government for the purpose. The parties be informed accordingly. As such, the reference stands disposed of. A copy of this order be sent to the Government of Himachal Pradesh Shimla-2 for its publication. A copy of this order be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the open Court today the 11th November, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, H. P., Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer, Labour Court, Himachal Pradesh, Shimla

Ref-2/91

Chamra Pariyojna Karamchari Sangh, Banikhet,
District Chamba (H. P.) .. Petitioner

vs.

M/s Chamra Jal Vidyut Pariyojna, Stage-I. (NEPC)
Dalhousie, District Chamba .. Respondent.

11-11-1994. Present : None for the parties.

AWARD

This order will determine the question as to whether the present reference, which has been made by the State Government, is valid or not. This question for determination has cropped up as a result of the preliminary objection which the Respondent-management has raised during the proceedings of this reference, on the basis of the judgement dated 19-7-1993 of our Hon'ble High Court which has been passed in C. W. P. No. 132 of 1991 titled "National Hydroelectric Power Corporation Ltd., vs. State of Himachal Pradesh and others". In this judgement, our Hon'ble High Court has held while interpreting the provisions of Section 2 (a) (i) of the Industrial Disputes Act, 1947 that National Hydroelectric Power Corporation is an authority of the Central Government and as such, it is only the Central Government which is the "appropriate government" in case, to make a reference in respect of the Industrial

Dispute concerning Chamra Project. Though general issues arising of preliminary objections are to be disposed of along with other issues regarding the merits of the case, but, available a reference to be made like the present one where the reference *prima facie* was made to be illegal in case this objection is not decided at this stage the judicial caution of this reference would be an excess in facility.

2. I have found the respondent's objection valid and have gone through the relevant provisions of law and also the authority aforesaid of our Hon'ble High Court. The facts of the case mentioned above in the law aforesaid has been laid down by our Hon'ble High Court, would go to show that National Hydroelectric Power Corporation i.e. Chamra Project, was one of the parties to the dispute which dispute was decided by this Court against the said project, and subsequently, when the writ concerning the said decision of this Court was taken up by the Hon'ble High Court, the Hon'ble High Court came to the conclusion that since the National Hydroelectric Power Corporation was an authority i.e. an undertaking of the Government of India, the State of Himachal Pradesh was not competent to make reference concerning the industrial dispute relating to the said project. In the case in hand, the respondent is also National Hydroelectric Power Corporation and the dispute relates to the service matter of the employees of said project. Therefore, in the wake of the aforesaid interpretation of Section 2(a)(i) of the Industrial Disputes Act, 1947 which has been made by the State of Himachal Pradesh is not legal because the same has been made without any jurisdiction and as such, this Court is not competent to adjudicate the present dispute. Accordingly, I hold that the present reference is illegal being without jurisdiction and as such, this Court is not competent to adjudicate the dispute, in question. The parties, if they so desire, may approach the Central Government for the purpose. The parties be informed accordingly. As such, the reference stands disposed of. A copy of this order be sent to the Government of Himachal Pradesh, Shimla-2 for its publication. A copy of this order be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 11th November, 1994.

B. S. CHOUHAN,

Seal. Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Ref-153/93

Chamra Jal Vidyut Pariyojna Karamchhari Sangh,
Banikhet. Petitioner.

versus

M/s Chamra Jal Vidyut Pariyojna, Stage-I, Dalhousie,
Distt. Chamba, Himachal Pradesh. Respondent.

19/11/94

11-11-1994. Present: None for the parties.

AWARD

This order will determine the question as to whether the present reference, which has been made by the State Government, is valid or not. This question for determination has cropped up as a result of the preliminary objection which the Respondent-management has raised during the proceedings of this reference, on the basis of the judgment, dated 19-7-1993 of our Hon'ble High Court which has been passed in C.W.P. No. 132 of 1991 titled "National Hydroelectric Power Corporation Ltd. v. State of Himachal Pradesh and others". In this judgement, our Hon'ble High Court has held while interpreting the provisions of Section 2(a) (i) of the Industrial Disputes Act, 1947 that National Hydroelectric Power

Corporation is an authority of the Central Government and as such, it is only the Central Government which is the "appropriate government" in this case, to make a reference in respect of the Industrial Dispute concerning Chamra Project. Though, generally issues arising out of preliminary objections are to be disposed of along with other issues regarding the merits of the case, but, inevitable an exception has to be made in a case like the present one where the reference *prima facie* appears to be illegal and as such this objection is not decided at this stage, the judicial caution of this reference would be an excess in facility.

2. I have found the respondent's objection valid and have gone through the relevant provisions of law and also the authority aforesaid of our Hon'ble High Court. The facts of the case mentioned above in the law aforesaid has been laid down by our Hon'ble High Court, would go to show that National Hydroelectric Power Corporation i.e. Chamra Project, was one of the parties to the dispute which dispute was decided by this Court against the said project, and subsequently, when the writ concerning the said decision of this Court was taken up by the Hon'ble High Court for decision, the Hon'ble High Court came to the conclusion that since the National Hydroelectric Power Corporation was an authority i.e. an undertaking of the Government of India, the State of Himachal Pradesh was not competent to make reference concerning the industrial dispute relating to the said project. In the case in hand, the respondent is also National Hydroelectric Power Corporation and the dispute relates to the service matter of the employees of said project. Therefore, in the wake of the aforesaid interpretation of Section 2(a)(i) of the Industrial Disputes Act, 1947 which has been made by the State of Himachal Pradesh is not legal because the same has been made without any jurisdiction and as such, this Court is not competent to adjudicate the present dispute. Accordingly, I hold that the present reference is illegal being without jurisdiction and as such, this Court is not competent to adjudicate the dispute, in question. The parties, if they so desire, may approach the Central Government for the purpose. The parties be informed accordingly. As such, the reference stands disposed of. A copy of this order be sent to the Government of Himachal Pradesh, Shimla-2 for its publication. A copy of this order be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 11th November, 1994.

Seal.

B. S. CHOUHAN,

Presiding Officer,
Labour Court, Himachal Pradesh Shimla.

In the Court of Shri B.S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Ref-94/91

M/s Baira Sui Jal Vidyut Pariyojna, (NHPC),
Surgani, Distt. Chamba, Himachal Pradesh. Respondent.

17-11-1994. Present: None for the parties.

AWARD

This order will determine the question as to whether the present reference, which has been made by the State Government, is valid or not. This question for determination has cropped up as a result of the preliminary objection which the Respondent-management has

raised during the proceedings for this reference, on the basis of the judgement dated 19-7-1993 of our Hon'ble High Court which has been passed in C.W.P. No. 132 of 1991 titled "National Hydroelectric Power Corporation Ltd. Vs. State of Himachal Pradesh and others". In this judgement, our Hon'ble High Court has held while interpreting the provisions of Section 2(a)(i) of the Industrial Disputes Act, 1947 that National Hydroelectric Power Corporation is an authority of the Central Government and as such it is only the Central Government which is the "appropriate government" in this case, to make a reference in respect of the Industrial Dispute concerning Chamara Project. Though, generally issues arising out of preliminary objections are to be disposed of alongwith other issues regarding the merits of the case, but, inevitable an exception has to be made in a case like the present one where the reference *prima facie* appears to be illegal and in case this objection is not decided at this stage, the adjudication of this reference would be an exercise in futility.

I have heard the representatives of the parties and have gone through the relevant provisions of law and also the authority aforesaid of our Hon'ble High Court. The facts of the case mentioned above in which the law aforesaid has been laid down by our Hon'ble High Court would go to show that National Hydroelectric Power Corporation i.e. Chamara Project, was one of the parties to the dispute which dispute was decided by this Court against the said project, and subsequently, when the writ concerning the said decision of this Court was taken up by the Hon'ble High Court for decision, the Hon'ble High Court came to the conclusion that since the National Hydroelectric Power Corporation was an authority, i.e. an undertaking of the Government of India, the State of Himachal Pradesh was not competent to make reference concerning the industrial dispute relating to the said project. In the case in hand, the respondent is also National Hydroelectric Power Corporation and the dispute relates to the service matter of the employees of said project. Therefore, in the wake of the aforesaid interpretation of Section 2(a)(i) of the Industrial Disputes Act, 1947 which has been made by the State of Himachal Pradesh is not legal because the same has been made without any jurisdiction and as such, this Court is not competent to adjudicate the present dispute. Accordingly, I hold that the present reference is illegal being without jurisdiction and as such, this Court is not competent to adjudicate the dispute in question. The parties, if they so desire, may approach the Central Government for the purpose. The parties be informed accordingly. As such, the reference stands disposed of. A copy of this order be sent to the Government of Himachal Pradesh, Shimla-2 for its publication. A copy of this order be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 14th November, 1994.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

by the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court Himachal Pradesh, Shimla.

Ref-90/92 dated 14.11.1994

Patitioners
A. Mohan Singh and others

Versus
The State of Himachal Pradesh

**M/s Chamara Jal Vidyut Pariyojna, Stage-I, (NHPC),
Dalhousie, District Jalandhar, Punjab**

Respondent

Presented on 11-11-1994 Present No. 2, None for the parties.

AWARD

This order will determine the question as to whether the present reference, which has been made by the State Government, is valid or not. This question for determination has a cropped up as a result of the preliminary objection which the Respondent-management has raised during the proceedings of this reference, on the basis of the judgement dated 19-7-1993 of our Hon'ble High Court which has been passed in C.W.P. No. 132 of 1991 titled "National Hydroelectric Power Corporation Ltd. vs. State of Himachal Pradesh and others". In this judgement, our Hon'ble High Court has held while interpreting the provisions of Section 2(a)(i) of the Industrial Disputes Act, 1947 that National Hydroelectric Power Corporation is an authority of the Central Government and as such, it is only the Central Government which is the "appropriate government" in this case, to make a reference in respect of the Industrial dispute concerning Chamara Project. Though, generally issues arising out of preliminary objections are to be disposed of alongwith other issues regarding the merits of the case, but, inevitable an exception has to be made in a case like the present one where the reference *prima facie* appears to be illegal and in case this objection is not decided at this stage, the adjudication of this reference would be an exercise in futility.

I have heard the representatives of the parties and have gone through the relevant provisions of law and also the authority aforesaid of our Hon'ble High Court. The facts of the case mentioned above in which the law aforesaid has been laid down by our Hon'ble High Court would go to show that National Hydroelectric Power Corporation i.e. Chamara Project was one of the parties to the dispute which dispute was decided by this Court against the said project, and subsequently, when the writ concerning the said decision of this Court was taken up by the Hon'ble High Court for decision, the Hon'ble High Court came to the conclusion that since the National Hydroelectric Power Corporation was an authority, i.e. an undertaking of the Government of India, the State of Himachal Pradesh was not competent to make reference concerning the industrial dispute relating to the said project. In the case in hand, the respondent is also National Hydroelectric Power Corporation and the dispute relates to the service matter of the employees of said project. Therefore, in the wake of the aforesaid interpretation of Section 2(a)(i) of the Industrial Disputes Act, 1947 which has been made by our Hon'ble High Court, the present reference which has been made by the State of Himachal Pradesh is not legal because the same has been made without any jurisdiction and as such, this Court is not competent to adjudicate the present dispute. Accordingly, I hold that the present reference is illegal being without jurisdiction and as such, this Court is not competent to adjudicate the dispute, in question. The parties, if they so desire, may approach the Central Government for the purpose. The parties be informed accordingly. As such, the reference stands disposed of. A copy of this order be sent to the Government of Himachal Pradesh, Shimla-2 for its publication. A copy of this order be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 14th November, 1994.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh Shimla

to the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-192

Ref-151/90

Ashwani Kumar & Others

Petitioner.

Gurmeet Singh & Others

Petitioner.

Versus

Versus

M/s Chamara Jal Vidyut Pariyojna, Stage-I,
(NHPC), Dalhousie, Distt. Chamba (H.P.)

M/s Chamara Jal Vidyut Pariyojna, Stage-II,

Karian, Distt. Chamba, (H.P.)

11-11-1994 Present : None

11-11-1994 Present : None

AWARD

AWARD

This order will determine the question as to whether the present reference, which has been made by the State Government, is valid or not. This question for determination has cropped up as a result of the preliminary objection which the Respondent-management has raised during the proceedings of this reference, on the basis of the judgment dated 19-7-1993 of our Hon'ble High Court which has been passed in C.W.P. No. 132 of 1991 titled "*National Hydroelectric Power Corporation Ltd. vs State of Himachal Pradesh and others*". In this judgement, our Hon'ble High Court has held while interpreting the provisions of Section 2(a)(i) of the Industrial Disputes Act, 1947 that National Hydroelectric Power Corporation is an authority of the Central Government and as such, it is only the Central Government which is the "appropriate government" in this case, to make a reference in respect of the Industrial dispute concerning Chamara Project. Though, generally issues arising out of preliminary objections are to be disposed of alongwith other issue regarding the merits of the case, but, inevitable an exception has to be made in a case like the present one where the reference *prima facie* appears to be illegal and in case this objection is not decided at this state, the adjudication of this reference would be an exercise in futility.

This order will determine the question as to whether the present reference, which has been made by the State Government, is valid or not. This question for determination has cropped up as a result of the preliminary objection which the Respondent-management has raised during the proceedings of this reference, on the basis of the judgment dated 19-7-1993 of our Hon'ble High Court which has been passed in C.W.P. No. 132 of 1991 titled "*National Hydroelectric Power Corporation Ltd. vs State of Himachal Pradesh and others*". In this judgement our Hon'ble High Court has held while interpreting the provisions of Section 2(a)(i) of the Industrial Disputes Act, 1947 that National Hydroelectric Power Corporation is an authority of the Central Government and as such, it is only the Central Government which is the "appropriate government" in this case, to make a reference in respect of the Industrial dispute concerning & Chamara Project. Though, generally issues arising out of preliminary objections are to be disposed of alongwith other issues regarding the merits of the case, but, inevitable an exception has to be made in a case like the present one where the reference *prima facie* appears to be illegal and in case this objection is not decided at this state, the adjudication of this reference would be an exercise in futility.

2. I have heard the representatives of the parties and have gone through the relevant provisions of law and also the authority aforesaid of our Hon'ble High Court. The facts of the case mentioned above in which the law aforesaid has been laid down by our Hon'ble High Court would go to show that National Hydroelectric Power Corporation i.e. Chamara Project, was one of the parties to the dispute which dispute was decided by this Court against the said project, and subsequently, when the writ concerning the said decision of this Court was taken up by the Hon'ble High Court for decision, the Hon'ble High Court came to the conclusion that since the National Hydroelectric Power Corporation was an authority i.e. an undertaking of the Government of India, the State of Himachal Pradesh was not competent to make reference concerning the industrial dispute relating to the said project. In the case in hand, the respondent is also National Hydroelectric Power Corporation and the dispute relates to the service matter of the employees of said project. Therefore, in the wake of the aforesaid interpretation of Section 2(a)(i) of the Industrial Disputes Act, 1947 which has been made by our Hon'ble High Court, the present reference which has been made by the State of Himachal Pradesh is not legal because the same has been made without any jurisdiction and as such, this Court is not competent to adjudicate the present dispute. Accordingly, I hold that the present reference is illegal being without jurisdiction and as such, this Court is not competent to adjudicate the dispute, in question. The parties, if they so desire, may approach the Central Government for the purpose. The parties be informed accordingly. As such, the reference stands disposed of. A copy of this order be sent to the Government of Himachal Pradesh, Shimla-171002 for its publication. A copy of this order be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room. Announced in the Open Court today the 11th November, 1994.

2. I have heard the representatives of the parties and have gone through the relevant provisions of law, and also the authority aforesaid of our Hon'ble High Court. The facts of the case mentioned above in which the law aforesaid has been laid down by our Hon'ble High Court would go to show that National Hydroelectric Power Corporation i.e. Chamara Project, was one of the parties to the dispute which dispute was decided by this Court against the said project, and subsequently, when the writ concerning the said decision of this Court was taken up by the Hon'ble High Court for decision, the Hon'ble High Court came to the conclusion that since the National Hydroelectric Power Corporation was an authority i.e. an undertaking of the Government of India, the State of Himachal Pradesh was not competent to make reference concerning the industrial dispute relating to the said project. In the case in hand, the respondent is also National Hydroelectric Power Corporation and the dispute relates to the service matter of the employees of said project. Therefore, in the wake of the aforesaid interpretation of Section 2(a)(i) of the Industrial Disputes Act, 1947 which has been made by our Hon'ble High Court the present reference which has been made by the State of Himachal Pradesh is not legal because the same has been made without any jurisdiction and as such, this Court is not competent to adjudicate the present dispute. Accordingly, I hold that the present reference is illegal being without jurisdiction and as such, this Court is not competent to adjudicate the dispute, in question. The parties, if they so desire, may approach the Central Government for the purpose. The parties be informed accordingly. As such, the reference stands disposed of. A copy of this order be sent to the Government of Himachal Pradesh, Shimla-2 for its publication. A copy of this order be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Announced in the Open Court today the 11th November, 1994.

Seal (B. S. CHOCHAN),
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-68/92

Baldev Raj & Others .. Petitioner.

Versus

M/S Chamra Jal Vidyut Pariyojna, Stage-I,
(NHPC), Dalhousie, Distt. Chamba (H.P.)

11-11-1994: Present None

AWARD

This order will determine the question as to whether the present reference, which has been made by the State Government, is valid or not. This question for determination has cropped up as a result of the preliminary objection which the Respondent-management has raised during the proceedings of this reference, on the basis of the judgement dated 19-7-1993 of our Hon'ble High Court which has been passed in C.W.P. No. 132 of 1991 titled "National Hydroelectric Power Corporation Ltd. vs State of Himachal Pradesh and others." In this judgement, our Hon'ble High Court has held while interpreting the provisions of Section 2(a)(i) of the Industrial Disputes Act, 1947 that National Hydro electric Power Corporation is an authority of the Central Government and as such, it is only the Central Government which is the "appropriate government" in this case, to make a reference in respect of the Industrial dispute concerning Chamra Project. Though, generally issues arising out of preliminary objections are to be disposed of along with other issues regarding the merits of the case, but, inevitable an exception has to be made in a case like the present one where the reference *prima facie* appears to be illegal and in case this objection is not decided at this state, the adjudication of this reference would be an exercise in futility.

2. I have heard the representatives of the parties and have gone through the relevant provisions of law and also the authority aforesaid of our Hon'ble High Court. The facts of the case mentioned above in which the law aforesaid has been laid down by our Hon'ble High Court would go to show that National Hydroelectric Power Corporation i.e. Chamra Project, was one of the parties to the dispute which dispute was decided by this Court against the said project, and subsequently, when the writ concerning the said decision of this Court was taken up by the Hon'ble High Court for decision, the Hon'ble High Court came to the conclusion that since the National Hydroelectric Power Corporation was an authority i.e. an undertaking of the Government of India, the State of Himachal Pradesh was not competent to make reference concerning the industrial dispute relating to the said project. In the case in hand, the respondent is also National Hydroelectric Power Corporation and the dispute relates to the service matter of the employees of said project. Therefore, in the wake of the aforesaid interpretation of Section 2(a)(i) of the Industrial Disputes Act, 1947 which has been made by our Hon'ble High Court, the present reference which has been made by the State of Himachal Pradesh is not legal because the same has been made without any jurisdiction and as such, this Court is not competent to adjudicate the present disputes. Accordingly, I hold that the present reference is illegal being without jurisdiction and as such, this Court is not competent to adjudicate the dispute, in question. The parties, if they so desire, may approach the Central Government for the purpose. The parties be informed

accordingly. As such, the reference stands disposed of. A copy of this order be sent to the Government of Himachal Pradesh, Shimla-2 for its publication. A copy of this order be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 11th November, 1994.

Seal. B. S. CHOCHAN
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri P. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-108/91

Baldev Ram .. Petitioner.

Versus

M S Chamra Jal Vidyut Pariyojna, Stage-I,
(NHPC), Dalhousie, Distt. Chamba & Others..

11-11-1994 Present None

AWARD

This order will determine the question as to whether the present reference, which has been made by the state Government, is valid or not. This question for determination has cropped up as a result of the preliminary objection which the Respondent-management has raised during the proceedings of this reference, on the basis of the judgement dated 19-7-1993 of our Hon'ble High Court which has been passed in C.W.P. No. 132 of 1991 titled "National Hydroelectric Power Corporation Ltd. versus State of Himachal Pradesh and Others". In this judgement, our Hon'ble High Court has held while interpreting the provisions of Section 2(a)(i) of the Industrial Disputes Act, 1947 that National Hydroelectric Power Corporation is an authority of the Central Government and as such, it is only the Central Government which is the "appropriate government" in this case, to make a reference in respect of the Industrial dispute concerning Chamra Project. Though, generally issues arising out of preliminary objections are to be disposed of along with other issues regarding the merits of the case, but, inevitable an exception has to be made in a case like the present one where the reference *prima facie* appears to be illegal and in case this objection is not decided at this state, the adjudication of this reference would be an exercise in futility.

2. I have heard the representatives of the parties and have gone through the relevant provisions of law and also the authority aforesaid of our Hon'ble High Court. The facts of the case mentioned above in which the law aforesaid has been laid down by our Hon'ble High Court would go to show that National Hydroelectric Power Corporation i.e. Chamra Project, was one of the parties to the dispute which dispute was decided by this Court against the said project, and subsequently, when the writ concerning the said decision of this Court was taken up by the Hon'ble High Court for decision, the Hon'ble High Court came to the conclusion that since the National Hydroelectric Power Corporation was an authority i.e. an undertaking of the Government of India, the State of Himachal Pradesh was not competent to make reference concerning the industrial dispute relating to the said project. In the case in hand, the respondent is also National Hydroelectric Power Corporation and the dispute relates to the service matter of the employees of said project. Therefore, in the wake of the aforesaid interpretation of Section 2(a)(i) of the Industrial Disputes Act, 1947 which has been made by our Hon'ble High Court, the present reference which has been made by the State of Himachal Pradesh is not legal because the same has

been made without any jurisdiction and as such, this Court is not competent to adjudicate the present dispute. Accordingly, I hold that the present reference is illegal being without jurisdiction and as such, this Court is not competent to adjudicate the dispute, in question. The parties, if they so desire, may approach the Central Government for the purpose. The parties be informed accordingly. As such, the reference stands disposed of. A copy of this order be sent to the Government of Himachal Pradesh Shimla-171002 for its publication. A copy of this order be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to be record room.

Announced in the Open Court today the 11th November, 1994.

Seal. **B.S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Shimla

Ref-30-94—

Dulo Ram .. Petitioner.

Versus

Prop. White Heaven Tea Estate, Dharamshala .. Respondent.

9-11-1994. Shri Dulo Ram, petitioner in person.

Shri Nirwan Singh, General Power of
Attorney of the respondent.

AWARD

As per statements of the parties placed on record, the parties have arrived at amicable settlement. According to the settlement, the respondent has agreed to pay a sum of Rs. 30,000 to the petitioner on or before 12-12-1994 in lieu of all his claim which the petitioner has set up in the present reference, and in turn, the petitioner has given up his claim in respect of his re-employment as a result of the said settlement. However, if the respondent management fails to pay the amount of Rs. 30,000 to the petitioner on or before 12-12-1994, either direct or through this Court, the present reference shall be deemed to have been allowed and the termination, in question, set-aside and the petitioner will be entitled to reinstatement with full back wages. Accordingly, the reference stands disposed of on the basis of the said settlement. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication. The file after its completion be consigned to the record room.

Announced in the Open Court today the 9th November, 1994 in the presence of the parties.

Seal. **B.S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B.S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Ref-91/92—

Shayam Bhadur .. Petitioner.

versus

Asstt. Engineer, HPPWD Sub-Division-II, Chamba,
Himachal Pradesh .. Respondent.

9-11-1994. Shri T.R. Bhardwaj, AR. for petitioner.
Shri D.P. Padha, AR for respondent.

AWARD

No evidence of the petitioner is present. This was the last opportunity. As such the evidence of the petitioner is closed. Statement of Shri D.P. Padha, AR. of the respondent has been recorded and he has been crossed examined by the A.R. of the petitioner. It is quite evident from the statement of Shri D.P. Padha, AR of the respondent, who is Assistant Engineer concerned, that the petitioner had worked, in all, only for 213 days. There is no reason to disbelieve the statement of Shri D.P. Padha, AR. for the respondent. Therefore, I hold that for want of 240 days the petitioner is not entitled to any relief because his case does not fall within the ambit of Section 25-F of the Industrial Disputes Act, 1947. As such, the reference is answered accordingly, and the same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in accordance with law. A copy of this order be supplied to the parties, free of costs, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 9th November, 1994 in the presence of parties.

Seal. **B. S. CHOUHAN,**
Presiding Officer,
Labour Court, Himachal Pradesh Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Ref—78/93

Desh Raj .. Petitioner.

versus

Divisional Forest Officer,
Wild Life Division, Chamba Himachal Pradesh
.. Respondent.

9-11-1994. Shri T.R. Bhardwaj, AR. for the petitioner.
Shri G.M. Abrol AR, for respondent.

AWARD

Shri T.R. Bhardwaj, AR for the petitioner states that it is not possible for him to file any statement of claim because the worker has not reported to him. This was the last opportunity. As such, the opportunity to file statement of claim is closed. Vide his statement placed on record, Shri G.M. Abrol, AR of the respondent has stated that the petitioner has only worked for 166 days. In view of the case of the petitioner does not fall within the ambit of Section 25F of the Industrial Disputes Act, 1947.

Similarly, Shri Abrol has stated that the Petitioner is employed as labourer from the very beginning and he had been doing the work of labourer only. Therefore, the petitioner is not entitled to any relief. Accordingly, the reference stands disposed of and a copy of this award be sent to the Government of Himachal Pradesh for publication. The file after its completion be consigned to the record room.

Announced in the Open Court today the 9th November, 1994 in the presence of the parties.

Seal. **B. S. CHOUHAN,**
Presiding Officer,
Labour Court Himachal Pradesh, Shimla.

In the Court of Shri B.S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref-6/94

Shanti Devi .. Petitioner.

Versus

M/S Himachal Fibres Ltd., Barotwala .. Respondent.

2-11-1994. Smt. Shanti Devi, petitioner in person with Shri Rahul Mahajan, Advocate petitioner.

Shri V.K. Gupta, AR, for respondent with Shri P. P. Sawami Sr. Personnel Manager,

AWARD

As per statements of the parties and their representatives placed on record, the parties have arrived at amicable settlement. According to the settlement, the petitioner Smt. Shanti Devi has agreed to accept sum of Rs. 20,000 from the respondent in lieu of her entire claim, which she has set up in the present reference. As such, the petitioner has stated that in lieu of the payment of Rs. 20,000, which the respondent has under taken to make on or before 15-11-1994, she does not press her present claim and the reference be disposed of accordingly. In view of this, the dispute comes to an end and the reference stands disposed of accordingly. The respondent is directed to make payment of Rs. 20,000 on or before 15-11-1994. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication. A copy of this award be supplied to each of the parties free of cost. The file after its completion be consigned to the record room.

Announced in Open Court on 2nd November, 1994 in the presence of the parties.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B.S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

—Ref-81/93—

General Secretary, Shivatheen Linopack
Workers Union, Parwanoo .. Petitioner.

versus

M.D. (Contractor) M/S Manserve Techno
Corporate Services (P) Ltd., Parwanoo .. Respondent.

24-11-1994 : Shri A. K. Sharma, AR for petitioner.
Shri V. K. Gupta, AR for respondents.

AWARD

As per statements of the representatives of the parties placed on record the dispute concerning the present reference stands settled. According to the said settlement, the workers of the petitioner-union i.e. Shivatheen Lino Pack Workers Union have given up their claim in respect of annual increments prior to 1995 and have also agreed that they would remain workers of M/S Manserve Techno Corporate Services Pvt. Ltd., a contractor company and M/S Shivatheen Lino Pack will be the principal employer. However, the respondent M/S Manserve Techno Corporate Services have agreed to grant annual increment to each worker @ Rs. 35 w. e. f. 1-1-1995 and have also agreed to grant such annual increment on 1st January of every subsequent year after 1995. Therefore, on the basis of this settlement, the dispute, in question comes to an end and the reference stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla, for its publication in the Himachal Pradesh Rajpatra. A copy of this award be supplied to each of the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the open Court today the 21

November, 1994 in the presence of the parties.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B.S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No : 47 of 1992.

Instituted on : 4-1-1993.

Decided on : 19-11-1994.

Shri Kahan Singh s/o Shri Joban Singh,
Village Jholbankawara, District Sirmaur
Paonta-Sahib .. Petitioner.

Versus

Executive Engineer
HPPWD (B&R), Paonta-Sahib.
District Sirmaur .. Respondent.

Reference under section 10 of the Industrial
Disputes Act, 1947.

For petitioner: Shri A.K. Gupta, Advocate.

For respondent: Shri Anil Kumar, AR.

AWARD

Through this reference, the State Government has referred the dispute with respect to the termination of the services of Shri Kahan Singh, hereinafter referred to as 'petitioner', for determination by this Court.

2. The case of the petitioner is that he was employed as 'Mate' on daily wages on 4-10-1989, by the Executive Engineer, HPPWD (B&R), Paonta-Sahib, hereinafter referred to as 'respondent' and thereafter, the petitioner worked continuously till 30-6-1990. It is alleged that on 1-7-1990, the services of the petitioner were terminated without any notice and compensation. Thus, the petitioner has stated that his termination is illegal and unjustified and the same be set-aside and he be re-instated with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the services of the petitioner were not terminated, but the petitioner had abandoned the job himself and as such the petitioner is not entitled to any relief.

4. On the aforesaid pleadings of the parties, following issues were framed :-

1. Whether the termination of the petitioner is illegal and unjustified? If so, to what relief the petitioner is entitled to? OPP.
2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings of the aforesaid issues are as under :-

FINDINGS :

Issue No : 1, Yes.

Relief : Reference answered in favour of the petitioner.

REASONS FOR DECISION

Issue No. 1 :

6. The scrutiny of the evidence on record would go to show that the petitioner had worked as 'Mate' during the period from 4-10-1989 to 30-6-1990 and during this period, he has actually worked for 269 days. This fact

has been admitted by Shri R.S. Yadav (RW-1), who has appeared as a witness of the respondent. Though the respondent has taken the plea that the petitioner had abandoned the services himself, but, it remains a fact that the Respondent has miserably failed to substantiate this plea because practically no evidence except the bald statement of Shri R.S. Yadav (RW-1) has been led. However, the said bald version of Shri R.S. Yadav is not sufficient to prove the fact that the petitioner had abandoned the job himself; especially, when the respondent had not issued any notice, at all, to the petitioner. Therefore, I am of the view that the services of the petitioner were terminated and he had not abandoned the same. Now, in case of termination like the present one, the petitioner has to establish that the respondent had violated the provisions of Section 25-F of the Industrial Disputes Act, 1947 while terminating his services. Section 25-F *supra* provides that no workman who has rendered not less than one year continuous service shall be terminated except after the expiry of thirty days' notice or in lieu of notice he is paid one month wages. Apart from this, it is also provided in the said section of law that such workman shall be entitled to compensation equivalent to 15 days average wages in respect of every completed year of service. The term one year continuous service has been defined in Section 25-F of the Industrial Disputes Act, 1947, which provides that a workman who has actually worked for 240 days in a calendar year shall be deemed to have rendered one year continuous service.

7. Adverting to the facts and circumstances of the case and the evidence aforesaid on record, it is admitted case of the respondent that it had not complied with the provisions of Section 25-F *supra*. Evidently, the petitioner had worked for 269 days during the calendar year preceding the date of his termination and as such, he is entitled to the protection of Section 25-F of the Industrial Disputes Act, 1947. Therefore, it can straight-away be held that the termination of the petitioner is illegal and unjustified because the respondent has terminated the petitioner without complying with the provisions of Section 25-F of the Industrial Disputes Act, 1947. As such, I hold that the petitioner has proved this issue. Accordingly, this issue is decided in favour of the petitioner.

RELIEF

8. As a result of my findings on the above mentioned issue, I hold that the termination of the petitioner is illegal and unjustified and as such, the same is set-aside and the petitioner is ordered to be re-instated with full back wages. Therefore, the reference is answered in favour of the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 19th November, 1994, in the presence of parties.

Seal. B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla
Camp Paonta-Sahib.

In the Court of Shri B.S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla, Camp Nurpur

Reference No : 56 of 1994.

Instituted on : 30-7-1994.

Decided on : 9-11-1994.

Shri Satish Kumar, Bhandari Cottage,
Nar Post Ilce Nagrota Bagwan, Tehsil
and District Kangra, Himachal Pradesh.
Petitioner.

Versus

M/S Sikand and Company.
Chambaghat, Solan, Himachal Pradesh.
Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri Ajay Dogra, AR.
For respondent : Ex-parte.

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of the services of the petitioner Shri Satish Kumar Sharma, for determination by this Court.

2. The case of the petitioner is that M/S Sikand and Company, Chambaghat, Solan, hereinafter referred to as 'respondent', had appointed him as Assistant at its Nagrota Bagwan branch on 23-3-1984 on regular basis and thereafter, he had worked continuously as such, till January, 1994 when his services were terminated without any notice and compensation. It is stated that in November, 1993, the respondent had transferred the petitioner to Bilaspur, but, due to disease with which he and his wife have been suffering, he was not in a position to join at Bilaspur and as such he had represented to the respondent that he be kept at Nagrota-Bagwan. However, there was no response to his representation despite the fact that he had also submitted medical certificates with the said representation and had also sent a reminder. It is further stated that subsequently on 18-1-1994, the respondent had sent a letter of termination in which it was mentioned that the services of the petitioner would stand terminated *w.e.f.* 19-1-1994. The petitioner has alleged that neither any notice as is required under section 25-F of the Industrial Disputes Act, 1947 was served upon him nor any compensation was paid to him. Thus, it is stated that his termination is illegal and same be set aside and he be re-instated with back wages.

3. On the other hand, the respondent is *ex-parte* because despite service no one had appeared for the respondent on 26-8-1994.

4. In support of his case, the petitioner has led *ex-parte* evidence, which consists of his statement coupled with the copies of documents Ex. PA to PJ.

5. I have heard the AR of the petitioner and have scrutinized the *ex-parte* evidence aforesaid on record. There is no denying the fact that the petitioner has worked for about 10 years with the respondent continuously and as such, he is entitled to the protection of Section 25-F of the Industrial Disputes Act, 1947. Section 25-F of the Industrial Disputes Act, 1947 provides that no worker who has rendered at least one year continuous service, shall be terminated unless he is served with thirty days notice and the period of notice has expired or is paid one month wages in lieu of such notice. It is further provided in the said section of law that such worker shall also be entitled to compensation at the rate of 15 days average wages for every completed year. The said provision of law is mandatory and violation thereof would render the termination illegal.

6. Adverting to the facts and circumstances of the case and the evidence aforesaid on record, it can straight-away be held that the respondent has not complied with the provisions of Section 25F *supra* because neither any thirty days notice of termination was served upon the petitioner nor one month wages in lieu of such notice have been paid. Similarly, the respondent has also not paid any compensation to the petitioner. No doubt, it is mentioned in the letter dated 18-1-94 by the respondent, a copy of which is Ex PJ that the services of the petitioner would stand terminated *w.e.f.* 19-1-1994 with one month salary, but no salary was sent with this letter. It is further mentioned in this letter that the petitioner has to pay a sum of Rs. 5250/- to the respondent and such, the salary of one month has been

adjusted against the said amount. Apparently, it is no compliance of the aforesaid provision of law. Any how, even if it is taken that it is, a sufficient compliance, even then, there is no mention with respect to the payment of compensation which the respondent was liable to pay under section 25-F of the Industrial Disputes Act, 1947 while dispensing with the services of the petitioner. This being so, the termination of the petitioner is illegal and same is set aside and the petitioner is ordered to be re-instated as Assistant in Nagrota Bagwan branch of the respondent with back wages. Accordingly, the reference is answered in favour of the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for publication. A copy of this award be supplied to the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 9th November, 1994.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh Shimla,
Camp Court Nurpur.

In the Court of Shri B S Chouhan, Presiding Officer,
Labour Court Himachal Pradesh Shimla Camp Court
Nurpur

Reference No : 60 of 1992.

Instituted on : 20-8-1992.

Decided on : 9-11-1994.

Sari Daleep Ponga S/O Shri Madan Lal
Ponga, Mohalla Chaugan, District Chamba.
.. Petitioner.

Versus

Executive Engineer, HPPWD
Division Chamba, Himachal Pradesh.
.. Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri T.R. Bhardwaj, AR.

For respondent : Shri D.P. Padha, AR.

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of the services of the petitioner Shri Daleep Ponga, for determination by this Court.

2. The case of the petitioner is that the Executive Engineer, HPPWD Division, Chamba, hereinafter referred to as 'respondent', had employed him as tracer draughtsman on daily wages in November, 1984 and thereafter, he had worked continuously as tracer-draughtsman on daily wage till 31-7-1988. It is alleged that on 1-8-1988, the respondent had terminated the petitioner without any notice and compensation. Thus, it is stated that the termination is illegal. Apart from this, it is also alleged that the respondent had paid the wages of beldar only to the petitioner during the period from 1-1-1988 to 31-7-1988, while he had worked as tracer-draughtsman. As such, the petitioner has stated that his termination be set aside and he be re-instated with full back wages and the respondent be also directed to pay his wages for the period from 1-1-1988 to 31-7-1988.

3. On the other hand, the respondent-management has admitted that the petitioner was employed as tracer

draughtsman on daily wages in November, 1984 and he worked as tracer-draughtsman on daily wages till 31-12-87. It is also admitted by the respondent that neither any notice of termination was served upon the petitioner nor any compensation was paid to him. However, it is stated that since the work against which the petitioner was employed had come to an end, there was no alternative, but, to dispense with his services. As regards the wages of tracer-draughtsman for the period from 1-1-1988 to 31-7-1988, it is stated that the petitioner had himself opted to work as beldar because the work of tracer-draughtsman had come to an end. Thus, it is stated that the petitioner is not entitled to any wages of tracer-draughtsman for the said period.

4. On the aforesaid pleadings of the parties, following issues were framed :—

1. Whether the petitioner has been terminated illegally without any justification? OPP.
2. Whether the reduction of wages of the petitioner during the period from 1-1-1988 to 31-7-1988, from the post of draughtsman to that of beldar, is legal and justified? OPR.
3. Relief.

5. I have heard the representatives of the parties and have scrutinized the evidence on record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :—

FINDINGS :

Issue No. 1	Yes.
Issue No. 2	No.
Relief.	Reference answered in favour of the petitioner.

REASONS FOR DECISION

Issue No. 1:

6. In support of his case, the petitioner has examined himself as a witness and has stated that he was employed as draughtsman on daily wages by the respondent in the year, 1984 and thereafter, he worked continuously as draughtsman on daily wages till 31-7-1988. He has further deposed that on 1-8-1988 his services were terminated without any notice nor any compensation was paid to him. Thus, the petitioner has stated that his termination is illegal and he may be re-instated with all consequential benefits. Despite an opportunity which was given to the respondent, the respondent has not cross-examined the petitioner Shri Daleep Ponga nor the respondent has led any evidence. Therefore, there is nothing on record to disbelieve the version aforesaid of the petitioner. As such it can straight-away be held that the petitioner had worked for three years and his services have been terminated without any notice and compensation.

7. Apparently, the said termination of the petitioner does not fulfil the conditions laid down under section 25-F of the Industrial Disputes Act, 1947. Section 25-F of the Industrial Disputes Act, 1947 provides that no workman, who has rendered at least one year continuous service, shall be terminated except after the expiry of thirty days notice in writing or such worker shall be paid one month wages in lieu of the termination notice. It is further provided that apart from the notice or wages as the case may be, the worker shall also be entitled to compensation equivalent to 15 days average wages in respect of every completed year. Through a catena of authorities of the Hon'ble Supreme Court, this provision of law has been held mandatory. This being so, violation of the said provision of law would render the termination illegal.

8. Adverting to the facts and circumstances of the case and the evidence aforesaid on record, it can straight-away be held that in the present case the respondent has flagrantly violated the provisions of Section 25-F

of the Industrial Disputes Act, 1947. However, the plea of the respondent that since the work against which the petitioner was employed had come to an end, the services of the petitioner had to be terminated, does not justify the termination of the petitioner unless the respondent had complied with the provisions of Section 25-F *supra*. Accordingly, I come to the conclusion that the termination of the petitioner is illegal and unjustified. As such, the petitioner has proved this i.e., Therefore, this issue is decided in favour of the petitioner.

Issue No. 2:

9. The petitioner has categorically stated in his statement while appearing as a witness that during the period from January, 1988 to July, 1988, he had worked as draughtsman. This version of the petitioner has not been disputed by the respondent because neither any cross-examination of the petitioner has been done nor any rebuttal evidence has been led. Therefore, it is clearly proved that the petitioner has actually worked as draughtsman during the period from January, 1988 to July, 1988 and as such he is entitled to wages of draughtsman. However, the plea of the respondent that the petitioner had himself opted to work as beldar is neither plausible and convincing nor any evidence has been led to prove this plea. Therefore, I hold that the petitioner has proved this issue. Accordingly, this issue is decided against the respondent and in favour of the petitioner.

RELIEF

10. Keeping my findings on the aforesaid issues in view, I hold that the termination of the petitioner is illegal and unjustified and as such the same is set-aside and the petitioner is re-instated as tracer-draughtsman with wages. Further, the petitioner is entitled to wages of tracer-draughtsman for the period from 1-1-1988 to 31-7-1988. The respondent is directed to take back the petitioner as tracer-draughtsman on daily wages and to pay him the said arrear of wages. Accordingly, the reference is answered in favour of the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication. A copy of this award be supplied to the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court to day the 9th November, 1994 in the presence of parties.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla,
Camp Court, Narpur.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla, Camp
Paonta

Reference No. 64 of 1993

Instituted on 30-4-1993

Decided on 20-1-1995

Shri Gulzar Singh S/O Shri Labh Singh,
Village Kadarapur, Tehsil Paonta, District
Sirmaur, Petitioner.

Versus

Deputy Director, Agriculture, Nahan,
District Sirmaur, Himachal Pradesh.
Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner Shri A.K. Gupta, Advocate.
For respondent Sh. G.C. Tayagi, AR.

AWARD

Through this reference the State Government has referred the dispute regarding the termination of Shri Gulzar Singh hereinafter referred to as 'petitioner' for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent as beldar on daily wages in the year 1988 and thereafter, he had worked continuously till July, 1992, when he was terminated by the respondent without any notice and compensation. Thus, the petitioner has stated that his termination is illegal and unjustified and the same be set-aside and he be re-instated with full back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner had abandoned the job himself in November, 1991 and thereafter, he had joined the Market Committee, Paonta and had worked in the said Committee till January, 1992 and subsequently, he had approached the Himachal Pradesh Administrative Tribunal and had obtained stay against the respondent and as a result of the said stay the petitioner was taken back by the respondent i.e.f. 13-4-1992. It is further mentioned that subsequently, the petitioner had withdrawn his writ petition from the Himachal Pradesh Administrative Tribunal in May, 1992 and thereafter, on 29-5-1992, he was served with termination notice of thirty days and after expiry of the said notice, the services of the petitioner were terminated. Thus, it is stated that the petitioner is not entitled to any relief.

4. From the pleadings of the parties, following issues were framed :-

1. Whether the termination of the petitioner Shri Gulzar Singh is illegal and unjustified? if so, to what relief, the petitioner is entitled to? OPP.
2. Whether the reference is bad on account of non-joinder? OPR.
3. Relief.

5. I have heard the representatives of the parties, and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :-

FINDINGS

Issue No. 1. No.

Issue No. 2. No.

Relief : Reference answered against the petitioner.

REASONS FOR DECISION

Issue No. 1 :

6. In order to prove his claim, the petitioner has not led any evidence. So much so, the petitioner has not examined himself despite the fact that he was given sufficient opportunity to lead evidence in support of his claim. On the other hand, the respondent has examined Shri G.C. Tayagi (RW-1). Shri Tayagi, who is District Agriculture Officer has stated that during the period from 1-7-1991 to 17-11-1991, the petitioner had worked for 95 days. He has further stated that the petitioner had left the job of the respondent and had joined the Market Committee, Paonta and subsequently, as a result of the stay obtained from the Himachal Pradesh Administrative Tribunal, he was taken back i.e.f. 13-4-1992 and thereafter he had worked till 30-6-1992 and during this period, the petitioner had worked for 79 days. Thus, it is stated that, in all, the petitioner had worked for 174 days with the respondent during the period from 1-7-1991 to 30-6-1992. Now, it has to be seen as to whether the petitioner is entitled to any relief or not. For this purpose, the case

of the petitioner has to be examined in the light of the relevant provisions of law. Section 25-F of the Industrial Disputes Act, 1947 deals with the termination cases like the present one. This section provides that no workman who has rendered one year continuous service shall be terminated except after the expiry of thirty days notice or he is paid wages of one month in lieu of such notice. Apart from this, it is provided in the said section of law that such workman shall also be paid compensation equivalent to fifteen days average wages in respect of every completed year of service. The term 'one year continuous service' has been defined in section 25-B of the Industrial Disputes Act, 1947, which provides that a workman is deemed to have rendered one year continuous service, if he had worked for 240 days during a calendar. It would, thus, be evident from the paid provisions of law that unless a workman has worked for 240 days within twelve calendar months preceding the date of his termination, he is not entitled to the protection of section 25-F of the Industrial Disputes Act, 1947. In the case in hand, it is clear from the statement aforesaid of Shri Tayagi that the petitioner had worked only for 174 days during the period of twelve calendar months preceding the date of his termination. Therefore, it can straight-away be held that the petitioner is not entitled to the benefit of section 25-F of the Industrial Disputes Act, 1947. Accordingly I hold that the petitioner has failed to prove this issue. As such, this issue is decided against the petitioner.

7. *Issue No. 2* : During the course of arguments, this issue has not been pressed by the representative of the respondent. As such, this issue is decided against the respondent.

RELIEF

8. As a result of my findings on the above mentioned issues, I hold that the petitioner is not entitled to any relief. As such, the reference is answered against the petitioner and same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh Shimla-2 for its publication in the H. P. Rajpatra. A copy of this award be supplied to each of the parties, free of cost, if applied for. This be consigned to record room after its completion.

Announced in the Open Court today the 20th January, 1995 at Paonta in the presence of the parties.

Seal.

B. S. CHOUHAN,

Presiding Officer.

Labour Court, Himachal Pradesh
Shimla, Camp Paonta.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla,
Camp Chamba

Reference No. 146 of 1993.

Instituted on : 28-10-1993

Decided on : 5-1-1995

Tarun Sharma S/o Shri Shakti Prasad, Mohalla
Kharura, Chamba ..Petitioner.

Versus

Executive Engineer, Himachal Pradesh Public Works
Department, Division, Chamba ..Respondent.

Reference under section 10 of the Industrial Disputes
Act, 1947.

For petitioner: Shri T. R. Bhardwaj, A. R.

For respondent: Shri D. P. Padha, A. R.

AWARD

Through this reference the State Government has referred the dispute regarding the termination of the

services of Shri Tarun Sharma hereinafter referred to as 'petitioner' for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent as Supervisor on daily wages in 1986 and thereafter he worked continuously till January, 1990 when his services were terminated without any notice and compensation. It is further stated that subsequently in November, 1990, he was re-employed by the respondent, but, only as beldar on daily wages. Thus, the petitioner has stated that his termination as Supervisor on daily wages is illegal and unjustified and the same be set-aside and he be re-instated with back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner was employed as Supervisor on daily wages in 1986 and thereafter, he had worked as supervisor on daily wages till January 1990 when his services were terminated because there was no work for him. It is admitted that no retrenchment compensation was paid to the petitioner. It is also admitted that in November 1990 the petitioner was re-employed as beldar on daily wages. Thus, it is stated that the petitioner is not entitled to any relief.

4. On the basis of the aforesaid pleadings of the parties, following issues were framed:-

(1) Whether the termination of the petitioner Shri Tarun Sharma as Supervisor is illegal and unjustified? If so, to what relief the petitioner is entitled to? OPP.

(2) Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter my findings on the aforesaid issues are as under :

FINDINGS

Issue No.1 : Yes

Relief Reference answered in favour of the petitioner.

REASONS FOR DECISION

6. *Issue No. 1* : It is admitted case of the parties that during the period from October, 1986 to January, 1990 the petitioner had worked as Supervisor on daily wages and on 31-1-1990, the services of the petitioner were terminated without payment of any retrenchment compensation. It is also admitted case of the parties that the petitioner had worked for 240 days during the period of twelve calendar months preceding the date of his termination. In view of these admitted facts, the only point which requires determination is as to whether the termination of the petitioner is illegal or not. In order to determine this question the present case has to be examined in the light of the relevant provisions of law. Section 25-F of the Industrial Disputes Act, 1947, deals with the termination cases like the present one. It provides that no workman, who has rendered one year continuous service, shall be terminated except after the expiry of thirty days notice or in lieu of notice, he shall be paid one month wages. Apart from this, it is provided in the said section of law that a workman shall also be paid retrenchment compensation which shall be equivalent to fifteen days average wages in respect of every completed year of service. The said provision of section 25-F *supra* are mandatory and violation thereof would render the termination illegal. In the case in hand, it is admitted case of the respondent that the said provisions of section 25-F of the Industrial Disputes Act, 1947 were not complied with, dispensing with the services of the petitioner. The term 'one year continuous service' has been defined in section 25-B of the Industrial Disputes Act, 1947. It provides that a workman who has actually worked for 240 days during a calendar year, shall be deemed to have completed one year continuous service. Since it is admitted case of the parties that the petitioner

had worked for 240 days during the period of twelve calendar months preceding the date of his termination, he is entitled to the protection of section 25-F of the Industrial Disputes Act, 1947. Therefore, it can straight-away be held that the termination of the petitioner is illegal and unjustified. As such, the petitioner is entitled to re-instatement as Supervisor on daily wages with effect from 1-2-1990. Thus, I hold that the petitioner has proved this issue and accordingly, this issue is decided in favour of the petitioner.

RELIEF

7. As a result of my findings on Issue No. 1, *supra*, I hold that the termination of the petitioner is illegal and unjustified and as such the same is set-aside and the petitioner is ordered to be re-instated as daily wages Supervisor with effect from 1-2-1990. The petitioner is also entitled to back wages for the period from February, 1990 till November, 1990 and the amount of the said daily wages is assessed at Rs. 2,000/- while after November, 1990, the petitioner is entitled to the difference of wages in between the wages of beldar, which he was paid and the wages of Supervisor for which he is entitled to. As such, the reference is answered in favour of the petitioner. Accordingly, the reference stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication. A copy of this award be supplied to each of the parties, free of cost, if applied for. This be consigned to record room after completion.

Announced in the open Court at Chamba today the 5th January, 1995 in the presence of the parties.

Seal.

B.S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla,
Camp Chamba.

In the Court of Shri B. S. Chouhan, Presiding Officer
Labour Court, Himachal Pradesh, Shimla,
Camp Chamba

Reference No. : 92 of 1993

Instituted on : 9-7-1993

Decided on : 5-1-1995

Shri Neeraj Sharma, Mohalla Upper Julakri, Chamba
Petitioner.

Versus

Executive Engineer, Himachal Pradesh Public Works
Department, Division Chamba, Himachal Pradesh
Respondent.

Reference under section 10 of the Industrial Disputes
Act, 1947

For petitioner: Shri T. R. Bhardwaj, A. R.

For respondent: Shri D. P. Padha, AR.

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of Shri Neeraj Sharma, hereinafter referred to as 'petitioner' for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent as Tracer Draughtsman on daily wages in September, 1985 and thereafter, he worked continuously till February, 1990, when his services were terminated without any notice and compensation. It is stated that the petitioner was paid wages of draughtsman only till December, 1987 and thereafter, he was paid the wages of beldar though he had been working as draughtsman

throughout. Thus, it is stated that petitioner is entitled to wages of draughtsman for the period from January, 1988 to February, 1990. It has also been stated that the termination of the petitioner is illegal and as such, the same be set-aside and he be re-instated with full back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner was employed as Beldar on daily wages and it was only during the period from October, 1985 to December, 1987 that the petitioner had worked as Tracer Draughtsman on daily wages. It is further stated that after December 1987, the petitioner had worked only as beldar till February, 1989. Thus, it is denied that the petitioner had worked as Tracer Draughtsman till February, 1990.

4. On the aforesaid pleadings of the parties, following issues were framed:—

1. Whether the termination of the petitioner was illegal and unjustified? If so, to what relief the petitioner is entitled to ? **OPP.**
2. Whether the petitioner is entitled to the wages of Draughtsman during the period from January, 1988 to February, 1990 ? **OPP.**
3. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :—

FINDINGS

Issue No. 1 : Yes.

Issue No. 2 : Yes.

Relief Reference answered in favour of the petitioner.

Issue 1 and 2:

6. Since both these issues are interlinked, the same are being taken up together for discussion and decision. The scrutiny of the evidence of the parties on record would make it clear that though the petitioner was employed as beldar on daily wages, but, he had been working as Tracer Draughtsman from the very beginning and he continued working as Tracer Draughtsman till February, 1990. However, the respondent had paid the wages of Tracer Draughtsman to the petitioner only till December, 1987 and thereafter, he was not paid the wages of Tracer Draughtsman. Subsequently, in February 1990, the respondent had dispensed with the services of the petitioner without complying with the provisions of section 25-F of the Industrial Disputes Act, 1947. Section 25-F of the Industrial Disputes Act, 1947 provides that no workman, who has rendered one year continuous service, shall be terminated except after the expiry of thirty days notice or in lieu of notice, he shall be paid one month wages. Apart from this, it is provided in the said section of law that a workman shall also be paid retrenchment compensation which shall be equivalent to fifteen days average wages in respect of every completed year of service. The said provisions of section 25-F supra are mandatory and violation thereof would render the termination illegal. In the case in hand, it is admitted case of the respondent that the said provisions of section 25-F of the Industrial Disputes Act, 1947 were not complied with, while dispensing with the service of the petitioner. The term 'one year continuous service' has been defined in section 25-B of the Industrial Disputes Act, 1947. It provides that a workman who has actually worked for 240 days during a calendar year, shall be deemed to have completed one year continuous service. The respondent has not disputed the fact that the petitioner had worked for more than 240 days within twelve calendar months preceding the date of his termination. Therefore the petitioner is entitled to the protection of section 25-F of the Industrial Disputes Act, 1947. Thus, it can straight way

AWARD

The State Government has referred the dispute regarding the regularisation of the services of the petitioner Shri Dhan Singh *alias* Mahindroo, for adjudication by this Court.

2. The case of the petitioner is that he has been working as beldar in Public Works Department since, 1974 and he is entitled to regularisation after completion of ten years service. It is stated that the respondent has failed to regularise the petitioner and as such, the respondent be directed to regularise the services of the petitioner and to give him the status of work-charged beldar after completion of ten years service.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner had not worked for 240 days in any of the calendar years since 1974 till 1978. However, it is stated that since 1979 the petitioner had worked for more than 240 days in each calendar year. Thus, the respondent has stated that the petitioner is not entitled to regularisation till 31-12-1988.

4. On the aforesaid pleadings of the parties, my learned predecessor had framed the following issues:

1. Whether the non-regularisation of Shri Dhan Singh by the department is justified? *OPR.*
2. Relief.

5. I have heard the representative of the petitioner and have gone through the record. However, no one has appeared for the respondent. For the reasons to be recorded hereinafter my findings on the aforesaid issues are as under:-

FINDINGS

- Issue No. 1: No
- Relief: Reference answered accordingly.

REASONS FOR DECISIONS

6. Issue No. 1:

The petitioner has put in his claim for regularisation on the basis of the instructions of the Government, which were issued in the year, 1990, *vide* which all the daily wages beldars were ordered to be regularised who had completed ten years continuous service. The evidence on record would go to show that the petitioner has failed to prove that he had worked for at least 240 days in each calendar year during the period from 1974 to 1978. However, the respondent has admitted that the petitioner had worked continuously for more than 240 days in each calendar year, with effect from 1989 onwards. Thus, it becomes clear that the petitioner had completed ten years continuous service on 31-12-1988 and as such, he is entitled to regularisation with effect from 1-1-1989. On the other hand, respondent has failed to show that petitioner is not entitled to such regularisation *w. e. f.* 1-1-1989. Therefore, I hold that the petitioner has proved that he is entitled to regularisation *w. e. f.* 1-1-1989. Accordingly, this issue is decided against the respondent and in favour of the petitioner to the extent mentioned above.

RELIEF

7. Keeping my findings on the aforesaid issue in view, I hold that the petitioner is entitled to regularisation *i.e.* he is entitled to work-charged status *w. e. f.* 1-1-1989. Accordingly, the reference is answered in favour of the petitioner and the same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to each of the parties, if applied for, free of cost. The file after its completion be consigned to the record room.

he held that the termination of the petitioner is illegal and unjustified because the same has been made in contravention of the mandatory provisions of section 25-F of the Industrial Disputes Act, 1947. The evidence on record would go to show that the petitioner had also worked as Tracer Draughtsman during the period from January, 1988 to February, 1990 and as such, he is entitled to wages of Tracer Draughtsman for the said period. It would be pertinent to mention here that during the pendency of this reference, the petitioner was ordered to be taken back in service as tracer draughtsman and as such, the petitioner has since then been working as Tracer Draughtsman on daily wages. Therefore, I come to the conclusion that the petitioner had been working as Tracer Draughtsman on daily wages and his termination is illegal and unjustified and as such, he is entitled to re-instatement with back wages. However, it is made clear that the department is obliged to keep the petitioner as Tracer Draughtsman on daily wages only till it does not dispense with his services in accordance with law. Thus, in case the department does not have any work for the petitioner nor does it have any post to accommodate him then the only obligation which is cast upon the respondent is to dispense with the services of the petitioner in accordance with the provisions of section 25-F of the Industrial Disputes Act, 1947 and not in contravention thereof. Accordingly, both these issues are decided in favour of the petitioner.

RELIEF

7. Keeping my findings on the aforesaid issues in view, I hold that the petitioner has been working as Tracer Draughtsman on daily wages and his termination is illegal and as such, the same is set-aside and the petitioner is ordered to be re-instated with back wages. The petitioner is entitled to back wages of Tracer Draughtsman for the period of January, 1988 to February, 1990. As regards the wages after February, 1990 till the petitioner was re-employed with the order of this Court, the same are fixed at Rs. 5,000. Accordingly, the reference is answered in favour of the petitioner. As such, the reference stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla for its publication. A copy of this award be supplied to each of the parties, free of cost, if applied for. This be consigned to record room, after completion.

Announced in the open Court at Chamba today the 5th January, 1995 in the presence of the parties.

Seal. B. S. CHOUHAN,
*Presiding Officer,
Labour Court, Himachal Pradesh,
Shimla Camp Chamba.*

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

Reference No. 56 of 1992.

Instituted on: 3-8-1992

Decided on: 5-8-1994

Shri Dhan Singh *alias* Mahindroo c/o Shri J. C. Bhardwaj, Saproon, District Solan *Petitioner.*

Superintending Engineer, Himachal Pradesh Public Works Department 12th Circle, Nahan, Himachal Pradesh.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner Shri J. C. Bhardwaj, A. R.

For respondent: *Ex-parte.*

Announced in the open Court today the 5th August, 1995.

Seal. B. S. CHOUDHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer
Labour Court, Himachal Pradesh, Shimla

Reference No. 31 of 1993

Instituted on : 22-4-1993

Decided on : 24-9-1994

Shri Uttam Singh s/o Shri Amar Singh, V & P. O.
Naura, Tehsil Palampur, District Kangra, Himachal Pradesh.
..Petitioner.

Versus

Executive Engineer, Public Health Division, Palampur,
District Kangra ..Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri Ajay Dogra, AR.

For respondent : Shri Milap Chand Dhiman, AR.

AWARD

The State Government has referred the dispute regarding the termination of the petitioner Shri Uttam Singh, for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent as beldar on 20-2-1988 and subsequently, he was appointed as Mortarmate w. e. f. 1-1-1989. Thereafter, he had worked as Mortarmate till 31-3-1990 after which date his services were terminated without any notice and compensation. Thus, the petitioner has alleged that his termination is illegal and same be set aside and he be re-instated with back wages.

3. On the other hand though the respondent has contested the claim aforesaid of the petitioner, but, it has failed to file reply despite various opportunities and as such, the defence of the respondent has been struck off.

4. In support of his claim, the petitioner has led evidence. However, the respondent could not lead any evidence because its defence has been struck off. I have heard the representatives of the parties and have scrutinized the evidence on record. It is quite clear from the evidence of the petitioner that he was employed as beldar on 20-12-1988 and subsequently, he had been made Mortarmate w. e. f. 1-1-89 and thereafter, he had worked continuously till 31-3-1989, after which date his services were terminated without any notice and compensation. During the course of cross-examination of the petitioner, the respondent has taken the stand that since the work of the scheme against which the petitioner was appointed as Mortarmate, was over, the termination of the petitioner was inevitable because he had declined to work in the other scheme.

5. The scrutiny of the aforesaid evidence on record would make it clear that the petitioner has been terminated without any notice and compensation. However, the stand which has been taken by the respondent, even if taken correct, cannot justify the termination in question, because after the petitioner had worked for more than 240 days during the calendar year preceding the date of his termination, he was entitled to protection of Section 25-F of the Industrial Disputes Act, 1947. Section 25-F of the Industrial Disputes Act, 1947 provides that no workman who has rendered at least one year continuous

service shall be terminated unless he is served with notice of thirty days or is paid wages in lieu of such notice and is also paid compensation. The provisions of Section 25-F *supra* are mandatory and violation thereof renders the termination illegal. Admittedly, in the case in hand, compliance of said section of law has not been made. Further, as already stated above, the stand which has been taken by the respondent does not justify the non-compliance of the said provision of law. However, it remains a fact that within the meaning of section 25-B of the Industrial Disputes Act, 1947, the petitioner had rendered one year continuous service prior to his termination because according to the provision of this section, a workman who has worked for 240 days during the calendar year preceding the date of termination shall be deemed to have rendered one year continuous service. Therefore, it comes to the conclusion that the termination of the petitioner is illegal and unjustified and the petitioner is entitled to re-instatement with back wages. Accordingly, the termination in question, is held illegal and unjustified and the same is set aside and the reference is answered in favour of the petitioner. The petitioner is re-instated as Mortarmate with back wages, which are fixed at Rs. 5,000/-. Thus, the reference stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be sent to the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 24th September, 1994 in the presence of the parties.

Seal. B. S. CHOUDHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer
Labour Court, Himachal Pradesh, Shimla

Reference No. : 28 of 1994

Instituted on : 14-4-1994

Decided on : 15-12-1994

Shri Ram Pal s/o Shri Daulat Ram, Village Ambwala,
Tehsil Nalagarh, District Solan ..Petitioner.

Versus

1. M/s B. C. C. Fuba India Ltd., Swarghat Road,
Nalagarh, District Solan.

2. The General Manager, B. C. C. Fuba India Ltd.,
Swarghat Road, Nalagarh, District Solan ..Respondents.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For Petitioner : In Person.

For respondent : Shri R. S. Chauhan, A. R.

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of the services of Shri Ram Pal, hereinafter referred to as 'petitioner', for determination by this Court.

2. The case of the petitioner is that he was employed by the respondent as Time-keeper on 27-8-1991 and thereafter, he served the respondent as Time-keeper till 22-2-1993, on which date his services were terminated by the respondent. It is alleged that the termination is illegal and the same be set-aside and he be re-instated with full back wages.

3. On the other hand, the respondent has contested

the claim aforesaid of the petitioner on the ground that the petitioner was on probation and since his performance was not satisfactory, his services were terminated. Thus, it is stated that the petitioner is not entitled to any relief.

4. On the aforesaid pleadings of the parties, following issues were framed:

1. Whether the termination of the petitioner Shri Ram Pal is illegal and unjustified? If so, to what relief the petitioner is entitled to? OPP.

2. Relief.

5. I have heard the petitioner and representative of the respondent and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under:—

FINDINGS

Issue No. 1. **Yes.**

Relief : Termination set aside. Petitioner re-instated with full back wages.

REASONS FOR DECISION

6. Issue No. 1.—The scrutiny of the evidence on record would make it clear that on 27-8-1991, the petitioner was appointed on probation for six months. Thereafter, the petitioner worked continuously till 22-2-1993 when his services were terminated. It is also clear from the evidence on record that the probation period of the petitioner was not extended after the expiry of six months. Further more, the evidence on record would also go to show that after completion of one year service, the petitioner was allowed annual increment. It is admitted case of the respondent that no compensation was paid to the petitioner at the time of his termination. However, it is stated that the petitioner had declined to accept the payment of one month wages at the time of termination. Thus, it is clear that compliance of Section 25-F of the Industrial Disputes Act, 1947, which deals with termination cases like the present one has not been made. The provisions of Section 25-F of the Industrial Disputes Act, 1947 are mandatory and non compliance thereof would render the termination illegal. In order to bring a particular case within the ambit of Section 25-F of the Industrial Disputes Act, 1947, the aggrieved workman has to prove that he had rendered one year continuous service prior to the date of his termination. Section 25-B of the Industrial Disputes Act, 1947 defines the term, "one year continuous service". It provides that if a workman has actually worked for 240 days during a calendar year, he shall be deemed to have rendered one year continuous service. It is admitted case of the respondent that the petitioner had worked for more than 240 days during the calendar year preceding the date of his termination. Therefore, the petitioner is entitled to the benefit of Section 25-F of the Industrial Disputes Act, 1947. Evidently, neither the petitioner was on probation at the time of his termination because his probation had not been extended nor the respondent had complied with the provisions of Section 25-F *Supra*. Therefore, the petitioner could not have been discharged from service for want of satisfactory performance because he was not on probation at the time of his termination. As such, it can safely be held that the petitioner has been terminated in violation of the mandatory provisions of the Industrial Disputes Act, 1947. This being so, the termination of the petitioner is illegal and unjustified. As such, the petitioner has proved this issue. Accordingly, this issue is decided in favour of the petitioner.

RELIEF

7. Keeping my findings on the aforesaid issue in view, I hold that the termination of the petitioner is illegal and as such, the same is set aside and the petitioner is ordered to be reinstated as time-keeper with full back wages. The reference is answered accordingly in favour

of the petitioner and the same stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication in Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to the parties, free of cost, if applied for. The file after its completion be consigned to record room.

Announced in the Open Court today the 15th December, 1994 in the presence of the parties.

Seal,

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Reference No. : 63 of 1992.

Instituted on : 4-1-1993.

Decided on : 4-8-1994.

Shri Pritam Singh S/o Shri Gaje Singh, V. P. O.
Haripurdhar, Tehsil Paonta, District Sirmaur
...Petitioner.

Versus

Executive Engineer, H. P. P. W. D.,
(B & R) Division, Paonta-Sahib,
District Sirmaur. ...Respondent.

Reference under Section 10 of the Industrial Disputes
Act, 1947.

For petitioner : Shri A. K. Gupta, Advocate.

For respondent : Shri R. L. S. Yadav, A. R.

AWARD

The State Government has referred the dispute regarding the termination of the services of the petitioner Shri Pritam Singh, for adjudication by this Court.

2. The case of the petitioner is that he was employed as beldar by the respondent in 1986 and thereafter, he worked continuously till 31-7-1990, on which date, he is alleged to have been terminated without any notice, wages and compensation. Thus, it is stated that the termination, in question is illegal and same be set aside and the petitioner be re-instated with full back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner had abandoned the job himself. It is also stated that the petitioner had not worked for 240 days in any of the calendar years and as such, the petitioner does not have any claim for re-instatement nor he is entitled to any other relief.

4. From the pleadings of the parties, following issues were framed:

1. Whether the termination of the services of the petitioner Shri Pritam Singh is illegal and unjustified, if so, to what relief, the petitioner is entitled to? OPP.

2. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under:

FINDINGS

Issue No. 1 : Yes

Relief : Reference answered in favour of the petitioner.

REASONS FOR DECISION

AWARD

Issue No. 1 :

6. The evidence on record would go to show that the petitioner had worked for 244 days during twelve calendar months preceding the date of his termination. According to the provisions of Section 25-F of the Industrial Disputes Act, 1947, no workman, who has rendered not less than one year continuous service, can be terminated unless he is served with a notice of thirty days or is paid wages in lieu thereof. Apart from this, such workman has to be paid compensation according to the number of years he has served. The said provisions of Section 25-F *supra* are mandatory and violation thereof would render the termination illegal. There is no denying the fact that in the case in hand, the petitioner had worked for more than 240 days during twelve calendar months preceding the date of his termination and as such, it can clearly be held that the petitioner had rendered one year continuous service prior to his termination. Thus, the petitioner is entitled to the protection of Section 25-F of the Industrial Disputes Act, 1947. Admittedly, the case in hand, the respondent has not complied with the provisions of Section 25-F of the Industrial Disputes Act, 1947 at all, nor it has been proved that the petitioner had abandoned the job himself. Thus, it can straight-away be held that the respondent has violated the mandatory provisions of Section 25-F *supra*. Therefore, the termination, in question, is illegal and unjustified. As such, the petitioner has proved this issue. Accordingly, this issue is decided in favour of the petitioner.

Relief:

7. Keeping my findings on the aforesaid issue in view, I hold that the termination of the services of the petitioner Shri Pritam Singh is illegal and unjustified and as such, the same is set-aside and the petitioner is ordered to be re-instated with back wages, which are assessed at Rs. 5,000/-. As such, the reference is answered in favour of the petitioner. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its due publication in the Himachal Pradesh Rajpatra in accordance with law. A copy of this award be supplied to the parties, free of cost, if applied for. The file after its completion be consigned to the record room.

Announced in the Open Court today the 4th August, 1994.

Seal.

B. S. CHOUHAN,

Presiding Officer,

Labour Court, Himachal Pradesh, Shimla.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla,
Camp Chamba

Reference No. : 95 of 1992

Instituted on : 21-9-1992

Decided on : 5-1-1995

Shri Jeetu s/o Shri Badri, Village Gundae, P. O. Bihari,
Tehsil Salooni, District Chamba, Himachal Pradesh

Versus

Assistant Engineer, H.P.P.W.D., Sub-Division, Salooni,
District Chamba

Respondent.

Reference under Section 10 of the Industrial Disputes Act, 1947.

For petitioner : Shri T. R. Bhardwaj, A.R.

For respondent : None.

Through this reference, the State Government has referred the dispute regarding the termination of Shri Jeetu, hereinafter referred to as 'petitioner', for determination by this Court.

2. The case of the petitioner is that he was employed as beldar on daily wages in 1978 by the Assistant Engineer, H.P.P.W.D., Sub-Division, Salooni, hereinafter referred to as 'respondent' and thereafter, he worked continuously as beldar till January, 1990, when he was terminated without any notice and compensation. Thus, the petitioner has stated that his termination is illegal and the same be set-aside and he be re-instated with full back wages.

3. On the other hand, the respondent has controverted the claim aforesaid of the petitioner on the ground that the petitioner was not terminated, but, he had abandoned the job himself. It is also stated that the petitioner had been irregular in his attendance and he had not completed 240 days during the calendar year preceding the date of his termination and as such, he is not entitled to any relief.

4. From the pleadings of the parties, following issues were framed:—

1. Whether the termination of the petitioner Shri Jeetu is illegal and unjustified. If so, to what relief, the petitioner is entitled to ? OPP.

2. Relief.

5. I have heard the A.R. of the petitioner and have gone through the record. For the reasons to be recorded hereinafter, findings on the aforesaid issues are as under:—

FINDINGS

Issue No. : 1 : No.
Relief : Reference answered against the petitioner.

REASONS FOR DECISION

Issue No. 1 :

6. The perusal of the contents of the statement of working days of the petitioner, which has been placed on record by the respondent, would go to show that the petitioner had worked only for 221 days during the calendar year, 1989. No doubt, the petitioner has stated in his statement that he had worked for 240 days during the calendar year preceding the date of his termination, but, in the wake of the said statement of working days which has duly been proved by the respondent, it is difficult to believe the version deposed by the petitioner.

7. For the purpose of getting relief under Section 25-F of the Industrial Disputes Act, 1947, which section governs the cases of termination like the present one, the aggrieved workman has to establish that he has worked for at least 240 days during twelve calendar months preceding the date of his termination. Evidently, the petitioner has failed to prove that he had worked for 240 days during the period of twelve calendar months preceding the date of his termination. Therefore, the petitioner is not entitled to the benefit of Section 25-F of the Industrial Disputes Act, 1947. This being so, even if it is taken that the petitioner was terminated by the respondent, even then the respondent was not obliged to comply with the provisions of Section 25-F of the Industrial Disputes Act, 1947, while dispensing with the services of the petitioner. As such, the petitioner has failed to prove this issue. Accordingly, this issue is decided against the petitioner.

Relief:

7. As a result of my findings on issue No. 1 *supra*,

I hold that the petitioner has failed to prove that his termination is illegal and unjustified and as such, the petitioner is not entitled to any relief. However, the petitioner had been re-employed by the respondent as a result of order dated 18-3-1993 of my learned predecessor and as such, the petitioner shall continue working, without benefit of the past service, if any, rendered by him. Accordingly, the reference is answered against the petitioner. As such, the reference stands disposed of. A copy of this award be sent to the Government of Himachal Pradesh, Shimla-2 for its publication. A copy of this award be supplied to each of the parties, free of cost, if applied for. This be consigned to record room after its completion.

Announced in the Open Court at Chamba today the 5th January, 1995 in the presence of the petitioner.

Seal.

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla,
Camp Chamba.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla,
Camp Chamba

Reference No : 55 of 1992

Instituted on : 3-8-1992

Decided on : 5-1-1995

Khair Mohammed s/o Shri Noordin, Village Larog,
P. O. Tikkri, Tehsil Churah, District Chamba
.. Petitioner.

Versus

Assistant Engineer, I & PH, Sub-Division, Tissa,
District, Chamba, Himachal Pradesh .. Respondent.

Reference under Section 10 of the Industrial Dispute
Act, 1947.

For petitioner : Shri T. R. Bhardwaj, A R.

For respondent : Shri R. K. Jhariyan, A R.

AWARD

Through this reference, the State Government has referred the dispute regarding the termination of Shri Khair Mohammed, hereinafter referred to as 'petitioner', for determination by this Court.

2. The case of the petitioner is that he was employed as Chowkidar on daily wages in the year, 1981 by the Assistant Engineer, I & PH, Sub-Division, Tissa, hereinafter referred as 'respondent' and thereafter, he worked continuously by till July, 1988, when his services were terminated without any notice and compensation. Thus, the petitioner has stated that his termination is illegal and same be set-aside and he be re-instated with full back wages.

3. On the other hand, the respondent has contested the claim aforesaid of the petitioner on the ground that the petitioner was not terminated, but, he had abandoned the job himself. It is also stated that the petitioner had not worked for 240 days during the period of twelve calendar months preceding the date of his alleged termination and as such, he is not entitled to any relief.

4. On the basis of aforesaid pleadings of the parties, following issues were framed by my learned predecessor :-

1. Whether the termination of the petitioner is illegal and unjustified ? OPP.
2. Whether the petitioner abandoned the job of his own in the year April, 1987, as alleged ? OPR.
3. Relief.

5. I have heard the representatives of the parties and have gone through the record. For the reasons to be recorded hereinafter, my findings on the aforesaid issues are as under :-

FINDINGS

Issue No. 1 :	No.
Issue No. 2 :	Yes.
Relief.	Reference answered against the petitioner.

REASONS FOR DECISION

Issue No. 1 :

6. The scrutiny of the evidence of the parties on record would make it evident that the petitioner had worked as Chowkidar on daily wages only till 30-4-1987 and not till July, 1988. To this effect, Shri R. K. Jhariyan, Assistant Engineer (RW-1) has made a categorical statement in which he has made it clear that the petitioner had worked till 30-4-1987 and not till July, 1988. He has also placed on record Ex. RA, in which the details of working days of the petitioner have been mentioned. The petitioner has also placed on record Ex. PA, which is a photostat copy of the certificate issued to him by the Junior Engineer concerned in which he has certified that the petitioner had worked as a Mate, Supervisor and Chowkidar, in I&PH Sub-Divisions, Koti and Tissa during the period from January, 1981 to July, 1988. Shri R. K. Jhariyan, Assistant Engineer (RW-1) has stated that this certificate is wrong because it is contrary to the record. The petitioner has not examined the Junior Engineer concerned so as to prove the genuineness of the said certificate nor it can be presumed from the contents of this certificate that the petitioner had worked for 240 days during the period of twelve calendar months preceding the date of his alleged termination. Therefore, the contents of Ex. PA cannot be believed and as such, this certificate is of no help to the petitioner. Thus, the petitioner has failed to prove that he had worked for 240 days during the period of twelve calendar months preceding the date of his alleged termination. Alternatively, even if it is taken that petitioner had not abandoned the job after 30-4-1987, but, he was terminated, even then he had not worked for 240 days during the period of twelve calendar months preceding 1-5-1987.

7. Now, it has to be seen as to whether the petitioner is entitled to any relief or not. For this purpose, the case of the petitioner has to be examined in the light of the provisions of Section 25-F of the Industrial Disputes Act, 1947, which section deals with termination cases like the present one. In order to bring the case of a workman within the ambit of Section 25-F of the Industrial Disputes Act, 1947, the aggrieved workman has to prove that he has worked for 240 days during the period of twelve calendar months preceding the date of his termination. Apparently, in the case in hand, the petitioner has failed to prove that he had worked for 240 days during the period of twelve calendar months preceding the date of termination. As such, the petitioner is not entitled to the benefit of Section, 25-F of the Industrial Disputes Act, 1947. So much so, the petitioner has even failed to prove that he was terminated. Therefore, I hold that the petitioner has failed to prove this issue and as such, this issue is decided against the petitioner.

Issue No. 2 :

8. There is conclusive evidence on record to the effect that the petitioner had worked only till April, 1987 and thereafter, he had abandoned the job. The petitioner has failed to rebut the said evidence. However, the statement of the petitioner coupled with certificate Ex. PA which has been issued in his favour by the Junior Engineer concerned is not sufficient to rebut the statement of Shri R. K. Jhariyan, Assistant Engineer (RW-1), who has categorically stated that the petitioner had worked only till April, 1987 and thereafter, he had abandoned the job. Therefore, I hold that the respondent has proved this issue. Accordingly, this issue is decided in favour of the respondent.

Ref: 1

लोक निर्माण विभाग

श्री 3 पत्र

शिमला-2, 23 दिसम्बर, 1995

As a result of my findings on the aforesaid issues, I hold that the petitioner is not entitled to any relief. As such, the reference is answered against the petitioner. Accordingly, the reference stands disposed of. A copy of this award is sent to the Government of Himachal Pradesh, Shimla-2 for its publication. A copy of this award is supplied to each of the parties, free of cost, if applied for. This is assigned to record room after its completion.

Announced in the Open Court at Chamba today, the 5th January, 1995 in the presence of the parties.

Sent,

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla,
Camp Chamba.

In the Court of Shri B. S. Chouhan, Presiding Officer,
Labour Court, Himachal Pradesh, Shimla

Ref: 23/93

S. Natrajan

Petitioner.

Versus

General Manager, Jai Parkash, Associates, Chamba
Parlojina, Ranikhet

Respondent.

Now for the petitioner,

Shri S. D. Mohan, AR for respondent.

AWARD

The representative of the respondent has submitted a written statement in which it is stated that the workman who belongs to the state of Kerala has since been paid his full and final dues to the tune of Rs. 4487.38 on 11-11-1994 in cash, and thereafter, he had left the service of the respondent. He has further stated that the project in which the said workman had been employed alongwith other workmen has since been completed and the workers including the petitioner stand retrenched and they have all been paid retrenchment compensation. As such, he has stated that the present reference be disposed of accordingly.

2. I have heard the representative of the respondent and have considered the stand aforesaid which has been taken by the respondent. Initially, in this case, Shri E. R. Bhardwaj, had appeared for the petitioner, but, subsequently, he had stated on 22-6-1994 that the petitioner was not available and as such, the petitioner was not interested on the present reference. However, on this statement of Shri Bhardwaj, the reference could not be disposed of because Shri Bhardwaj did not have authorisation of the petitioner. Thereafter, a notice was sent to the petitioner at his home address, but, it was found that the petitioner was not available at the said address and it was the only available address. Under these circumstances, there is no alternative, but, to dispose of the present reference on the basis of the submissions aforesaid made by the representatives of the respondent, especially, when the petitioner is not available and the project, in question, where the petitioner has sought for re-employment. Accordingly, I hold that the petitioner has failed to prove the alleged termination. Accordingly, the reference stands disposed of. A copy of this award is sent to the Government of Himachal Pradesh, Shimla for publication. A copy of this award is supplied to the parties, free of cost, if applied for. This is assigned to record room after completion.

Announced in the Open Court today the 25th November, 1994 in presence of the respondent.

Sent,

B. S. CHOUHAN,
Presiding Officer,
Labour Court, Himachal Pradesh, Shimla.

मं० लो० नि० (ख) 7 (1) 142/93.—इस विभाग द्वारा जारी समसंख्यक अधिसूचना दिनांक 11-1-95 जो कि राष्ट्रीय श्रम संहिता के निर्माण हेतु गांव कटीपरी में भू-पूजन अधिनियम, 1894 की धारा 4 के अन्तर्गत जारी की है, में खसरा नं० 1394/1 के मामले 0-02-50 हैजियर को स्थान पर 0-02-95 पड़ा जावे और खसरा नं० 1410/4 खसरा 0-02-54 नया जोड़ा जाता है जिसके जोड़े पर कुल किता 50 तथा रकबा 2-05-33 है 0 पड़ा जावे।

शिमला-2, 23 दिसम्बर, 1995

मं० लो० नि० (ख) 7 (1) 104/94.—इस विभाग द्वारा जारी समसंख्यक अधिसूचना दिनांक 11-7-95 जो कि राष्ट्रीय श्रम संहिता की धारा 20 के अन्तर्गत जारी की है, में खसरा नं० 325/1 तथा 329/1 के बीच में खसरा नं० 228/1 के स्थान पर 328/1 पड़ा जावे।

आदेश द्वारा,
लो० एन० एन०
सचिव।

अधिसूचना

शिमला-2, 27 दिसम्बर, 1995

संख्या लो० नि० (ख) 7 (1)-128/94.—यह हिमाचल प्रदेश के राज्यपाल को यह पता चलता है कि हिमाचल प्रदेश सरकार को सरकारी स्तर पर सार्वजनिक प्रयोजन हेतु नामतः गांव मलहोटी, तहसील पच्छाद, जिला गिरमौर में नगर-कार्यालय-आयुधन सड़क के निर्माण हेतु भूमि की जानी प्रेषित है, अतएव एतद्वारा यह घोषित किया जाता है कि नीचे विवरणी में वर्णित भूमि उपयोग प्रयोजन के लिए प्रेषित है।

2. यह घोषणा भूमि पूजन अधिनियम, 1894 की धारा 4 के उपबन्धों के अधीन इससे सम्बन्धित सभी व्यक्तियों को सूचना हेतु की जाती है तथा उक्त अधिनियम की धारा 7 के अधीन भू-पूजन समाहर्ता, लोक निर्माण विभाग, मोलन को उक्त भूमि को पूजन करने के आदेश देने का एतद्वारा निर्देश दिया जाता है।

3. भूमि का रेखांक, भू-पूजन समाहर्ता, लोक निर्माण विभाग मोलन को कार्यालय में निरीक्षण किया जा सकता है।

विवरण

जिला : गिरमौर

तहसील : पच्छाद

गांव	खसरा नं०	जैव	
		3	4
1	2	3	4
मलहोटी	262/7 1/1/2	1	12
	308/262/7 1/3/1	2	19
	68/2	0	2
	68/1	0	1
	69/1	0	7
	70/1	0	1
	104/1	1	2
	113/2	1	1
	114/1	0	5
	115/1	0	1
	116/2	0	5
	143/1	0	7
	144/1	0	18

1	2	3	4	1	2	3	4
	151/1	0	1				
	152/2	0	3		277/191/2	0	19
	153/1	0	9		302/208/2	0	3
	214/2	0	9		303/208/2	0	1
	210/2	0	4		210/2	0	11
	200/1	0	2				
	201/1	0	5	हिमा	28	14	12
	196/1	0	7				
	197/1	0	16				
	199/2	0	9				
	195/3	0	12				

आदेश द्वारा,

पी० एम० राणा,
जिलाधिकारी एवं सचिव।

भाग 2 वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अधिसूचनाओं और विभा संज्ञितों द्वारा अधिसूचनाएं इत्यादि।

कार्यालय जिला दण्डाधिकारी एवं नोटरी नियम 1956 के अन्वयेन समक्ष अधिनारी कागजात स्वीकृत भ्रमणाला

अधिवक्ता की नियुक्ति के लिए हिमाचल प्रदेश सरकार ने प्रावृ किया जायेगा।

सचना

मनीषा श्रीधर,
जिला दण्डाधिकारी,
कांगडा।

सार्वजनिक जमाना को सूचित किया जाता है जिला कागडा के नरो सुजित उपमण्डल उवाली में स्थापित एवं बैंक वणिज्य का कार्य, कार्यकारी दण्डाधिकारी जब वह अपने कार्यालय से क्षेत्रीय कार्य का निष्पादन करने के लिए बाहर होते हैं तो जमाना को उक्त कार्य करवाने के लिये पर्याप्त कठिनाईयों का सामना करना पड़ रहा है। अब यह आवश्यक हो गया है कि उपमण्डल उवाली में एक नोटरी की नियुक्ति की जाये।

स्थान : भ्रमणाला
दिनांक :

लोक मणक विभाग

अधिसूचना

जिला-2, 9 अगस्त, 1995

अब जब कि श्री मजन सिंह रेहमालिया, अधिवक्ता, उवाला ने नतीर नोटरी की नियुक्ति के लिए प्रार्थना-पत्र इस कार्यालय में प्रस्तुत किया है जिसकी जांच में पाया गया कि वह प्रार्थना-पत्र नोटरी नियम, 1956 के अन्वयेन ठीक पाया गया है।

संख्या 5-128/80-पत्र-47944.—इस कार्यालय अधिसूचना नमसंख्या दिनांक 9-5-95 के अधिसूचना में हिमाचल प्रदेश वितीय नियम, 1971 के उप-नियम 1.17 तथा 1.26 के तहत प्रवृत्त शक्तियों का प्रयोग करते हुए श्री एम० के० मन्ना, उप-निदेशक (लोक मणक) क्षेत्रीय कार्यालय, भ्रमणाला, को जिला लोक मणक अधिकारी भ्रमणाला के कार्यालय के दायरणा एवं विवरण तथा वहां कार्यरत तृतीय एवं चतुर्थ श्रेणी कर्मचारियों एवं प्राकस्मिक व्यय के कार्यालयवास्तव तथा निपन्त्रण अधिकारी की शक्तियों मुद्रा शीर्ष 2220—सूचना पत्र पत्रा के तहत नरकाल में प्रागामी आदेशों तक प्रदान की जाती है।

हस्ताक्षरित/-
निदेशक।

भाग 3—विधियम, विधायक और विधेयकों पर प्रवर सभित के प्रतिवेदन, वैधानिक नियम तथा विभाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, काईनेलियाल कमिशनर तथा कमिशनर प्राफ इस्कम देवस द्वारा अतिरुजित आदेश इत्यादि।

विधि विभाग

अधिसूचना

जिला-2, 23 सितम्बर, 1995

संख्या एल० एल० आर०-ई (9) 41/82-11.—हिमाचल प्रदेश के राज्यपाल, इस विभाग की समसूचक अधिसूचना तारीख 25 अप्रैल, 1984 द्वारा जारी और राजपत्र, हिमाचल प्रदेश (साम्प्रदाय), तारीख 2 मई, 1984 में प्रकाशित, हिमाचल प्रदेश विधि महायता नियम, 1984 में संशोधन करने के लिए निम्नलिखित नियम बनाते हैं।

1. संक्षिप्त नाम और प्रारम्भ.—(1) इन नियमों का संक्षिप्त नाम हिमाचल प्रदेश विधिक महायता (प्रथम संशोधन) नियम, 1995 है।

(2) ये नियम तत्त्न चर्चन होंगे।

2. नियम 16 का संशोधन.—हिमाचल प्रदेश विधिक महायता नियम, 1984 के विद्यमान नियम 16 में अंक "7200" के स्थान पर अंक "12000" प्रतिस्थापित किए जाएंगे।

आदेश द्वारा,
कुलदीप नरद मूव,
सचिव।

{Authoritative english text of the Government Notification No. L.L.R-E(9)41/82-11, dated 23-9-95 as required under Clause (9) of Article 348 of the Constitution of India}.

LAW DEPARTMENT

NOTIFICATION

Shimla-2, the 23rd September, 1995

No. L.L.R-E(9)41/82-11. The Governor of Himachal Pradesh is pleased to make the following rules to amend the Himachal Pradesh Legal Aid Rules, 1984 issued vide this Department notification of even number, dated the 25th April, 1984 and published in the Rajpatra, Himachal Pradesh (Extra-ordinary), dated the 2nd May, 1984, namely :—

1. Short title and commencement. (1) These rules may be called the Himachal Pradesh Legal Aid (First Amendment) Rules, 1995.

(2) They shall come into force at once.

2. Amendment of Rule 16.—In existing rule 16 of the Himachal Pradesh Legal Aid Rules, 1984, for the figure, "7200" the figure "12000" shall be substituted.

By order,

K. C. SOOD,
Secretary.

भाग ४ - स्थानीय स्वायत्त शासन, व्यक्तिगत कोष, इतिहास और नोटिफाइड और डाउन ग्विन्दा तथा पंचायती राज विभाग ।

-अग्रणी

भाग ५ - व्यक्तिगत अधिपुत्रनाथ और विज्ञापन

In the Court of Shri K. L. Sharma, Senior Sub-Judge,
Bilaspur, Camp at Ghumarwin, District Bilaspur,
Himachal Pradesh

Case No. 27/1 of 95/91

In the matter of :

Santokha s/o Gopala, r/o village Hatwar, Pargana
Ajmerpur, Tehsil Ghumarwin, District Bilaspur (H. P.)
.. Plaintiff.

Versus

Dharam Dass s/o Santa, r/o Village Hatwar, Pargana
Ajmerpur, Tehsil Ghumarwin, District Bilaspur,
Himachal Pradesh .. Defendant.

To

1. Bishan s/o Nathu Ram, r/o Village Hatwar,
Pargana Ajmerpur, Tehsil Ghumarwin, District
Bilaspur, Himachal Pradesh.
2. Satya Devi wd/o Shri Brij Lal, r/o Village Hatwar,
Pargana Ajmerpur, Tehsil Ghumarwin, District
Bilaspur, Himachal Pradesh.
3. Kanta Devi d/o Brij Lal, r/o Village Hatwar,
Pargana Hatwar, Tehsil Gumarwin, District
Bilaspur, Himachal Pradesh.

Whereas in the above noted case, it has been proved
to the satisfaction of this Court that the above mention-
ed defendants (L. Rs.) are avoiding of the service of
the summons and can not be served in the normal
course of service.

Hence proclamation under order 5, rule 20, C.
P. C. is hereby issued Against them to appear in this
Court on or before 14-11-1995 at 10 A.M. personally or
through an authorised Agent/Counsel to defend the
case failing which *ex parte* proceeding will be taken
against them.

Given under my hand and seal of the Court this
15th day of September, 1995.

Seal. K. L. SHARMA,
Senior Sub-Judge Bilaspur
Camp at Ghumarwin, District
Bilaspur, Himachal Pradesh.

In the Court of Shri S. C. Kainthla, Sub Judge 1st Class,
Ghumarwin, District Bilaspur, Himachal Pradesh

Case No. 10/5 of 94

In the matter of :

1. Jai Lal, 2. Narotamni Dutt, 3. Bishan Dass,
s/o Dandu Ram, r/o village Chawari, Pargana Tiun,
Tehsil Ghumarwin, District Bilaspur, Himachal Pradesh

.. Petitioners.

Versus

The General Public .. Respondents.

To

The General Public.

Whereas in the above noted case the petitioners

applied for grant of petition for the private of annexed
will executed by Shri Dandu Ram s/o Lubha, r/o
village Chawari, Pargana Tiun, Tehsil Ghumarwin,
District Bilaspur, Himachal Pradesh.

Hence this proclamation is under order 1, rule 8, CPC
is hereby issued to the General Public that if any body
has got objection the same be filed in this court on
before 19-10-1995 at 10 A. M. personally or through
pleader or through an authorised agent failing which the
petition shall be heard and decide *ex parte*.

Given under my hand and seal of the Court on
this 29th day of September, 1995.

Seal.

S. C. Kainthla,
Sub-Judge 1st Class, Ghumarwin,
District Bilaspur,
Himachal Pradesh.

In the Court of Shri A. C. Thailwal, Senior Sub-Judge,
Hamirpur, Himachal Pradesh

Succession Act Petition No. 23/95

Date of Institution 1-7-95

Date of Hearing 30-10-95

(1) Vinod Kumar, (2) Ajay Kumar sons of,
(3) Santosh Kumar, (4) Anisha Kumari ds/o Babu Ram,
(No. 2 minor though next friend Vinod Kumar) all r/o
Neri Tappa Mehla, Tehsil Bhoranj, District Hamirpur
.. Petitioners.

Versus

General Public

.. Respondent.

Application u/s 372 of the Indian Succession Act for
issuance of Succession Certificate.

To

The General Public.

Whereas the above noted petitioners have moved an
application duly supported with an affidavit under the
Indian Succession Act praying there in that Succession
Certificate in respect of the assets/debts of
Shri Babu Ram died on 4-2-1994 may be issued in his
favour.

Hence this proclamation is hereby issued to the
General Public and kith and kins of the deceased to
file their objection if any, before this Court on or
before 30-10-1995 at 10 A.M. either personally or
through authorised agent failing which Succession
Certificate as sought to be issued shall be granted
ex parte in favour of the petitioners.

Given under my hand and seal of this Court to day
the 26th day of September, 1995.

Seal.

A. C. THAILWAL,
Senior Sub-Judge,
Hamirpur, Himachal Pradesh.

In the court of Shri A. C. Thalwal, Senior Sub-Judge
Hamirpur (H.P.)

Succession Act Petition No. 31/95

Date of Institution 13-9-95

Date of Hearing 2-11-95

1 Smt. Nikku Devi wd/o, 2. Onkar Chand,
3. Joginder Singh, 4. Devi Singh sons of, 5. Bimla Devi
6. Sunita Kumari d/o Jai Ram Verma, r/o Bhandeon
P. O. Channana, Tehsil Sujaipur, District Hamirpur
(H.P.) ..Petitioners.

Versus

General public

Respondents

Application U/s 372 of the Indian Succession Act
for issuance of Succession Certificate.

To

The general public.

Whereas the above noted petitioners have moved an
application duly supported with an affidavit under the
Indian Succession Act praying therein that Succession
Certificate in respect of the assets/debts of Shri
Jai Ram Verma died on 12-10-87 may be issued in
their favour.

Hence this proclamation is hereby issued to the
general public and kith and kind of the deceased to
file their objection if any, before this court on or
before 2-11-95 at 10.00 A.M. either personally or
through authorised agent failing which Succession
Certificate as sought to be issued shall be granted
ex parte in favour of the petitioners.

Given under my hand and seal of this court today
the 27th day of September, 1995.

Seal.

A. C. THALWAL,
Senior Sub-Judge,
Hamirpur (H.P.).

In the court of Shri A. C. Thalwal, Senior Sub-Judge
Hamirpur (H.P.)

Guardian and Ward Act Petition No. 6/95

Date of Institution 16-9-1995

Date of hearing 2-11-95

Ram Sahai alias Ram Swarup s/o Ramesh Chand
minor through Kusilya Devi wd/o Ramesh Chand at
present residing at the house of her father namely
Garib Dass, r/o Chathiar, P. O. and Tappa Balduhak,
Tehsil Nadaun, District Hamirpur (H.P.) ..Petitioner.

Versus

General public

Respondent

Petition under Hindu Minority and Guardianship
Act, 1956/Guardian and Ward Act, 1890.

To

The General public.

Whereas in the above noted case, the petitioner has
filed an application in this court under Guardian and
Ward Act, 1890 for declaration that Kaushalya Devi
wd/o Ramesh Chand is natural guardian of minor son
Ram Sahai alias Ram Swarup s/o late Sep. (Blacksmith
Ramesh Chand No. 3983460, r/o Village Chathiar,
P.O. Balduhak, Tehsil Nadaun, District Hamirpur to
draw the amount of pension on behalf of minor Ram
Sahai alias Ram Swarup as Shri Ramesh Chand died
in the Army.

Hence this proclamation is hereby issued to the
general public and kith and kind of the deceased
Ramesh Chand for filing objections, if any, before
this court on 2-11-95 at 10.00 A.M. personally or through
an authorised agent or pleader to defend the case
failing which the petition will be heard and disposed
of *ex parte*.

Given under my hand and seal of the court today
the 27th day of September, 1995.

Seal.

A. C. THALWAL,
Senior Sub-Judge,
Hamirpur (H.P.)

In the Court of Shri J. L. Gupta, Senior Sub-Judge,
Hamirpur, Himachal Pradesh

Succession Act Petition No 15/95

Date of Institution 1-5-1995

Date of hearing 6-11-1995

Hari Chand son of late Shri Khiali Ram resident of
village Bharnang, Tappa Matti Morian, Tehsil and
District Hamirpur, Himachal Pradesh. ..Applicant.

Versus

1. General Public,

2. Kartaran Devi w/o Sarwan Singh, r/o village Nirkhi,
Post Office Patlauder, Tehsil Sujaipur, District
Hamirpur, Himachal Pradesh.

3. Geetan Devi wife of Suhnu Ram, resident of
village and Post Office Janna Puri, Tehsil & District
Dehradun, Uttar Pradesh

4. Satya Devi wife of Mohan Lal resident of village
& Post Office Banal, Tehsil Sujaipur, District
Hamirpur, Himachal Pradesh ..Respondents.

Application U/s 372 of the Indian Succession Act for
grant of Succession Certificate.

To

The general public

Whereas in the above noted case, the petitioner
has filed an application for the grant of Succession
Certificate u/s 372 of the Indian Succession Act in
respect of decretal amount of late Shri Khushi Ram
s/o of Shri Thakur Dass, r/o Bharnang, Tehsil and
District Hamirpur, Himachal Pradesh.

Hence this proclamation is hereby issued to the
General Public of the illaqua to file objections, if any
to the grant of such certificate in this Court on or
before 6-11-95 at 10 A.M. personally or through an
authorised agent or pleader failing which the certificate
as sought to be issued should be granted *ex parte*
in favour of the petitioner.

Given under my hand and the seal of the Court
today the 16th day of May, 1995.

Seal.

J. L. GUPTA,
Senior Sub-Judge,
Hamirpur, Himachal Pradesh.

In the Court of Shri A. C. Thalwal, Senior Sub-Judge
Hamirpur, Himachal Pradesh

Succession Act Petition No. 29 of 1995

Date of Institution 12-9-1995

Date of hearing 24-11-1995

1. Satya Devi wd/o 2. Santosh Kumar, 3. Ramesh
Chand s/o Ishwar Chander s/o Vidya Sagar, r/o Bhagot

Tippa Mehla, District Hamirpur, Himachal Pradesh.
.. Petitioners.

प्रार्थना-पत्र अश्वीन धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

Versus

General public

.. Respondent.

Application U/s 372 of the Indian Succession Act for issuance of Succession Certificate.

To

The general public

Whereas the above noted petitioners have moved an application duly supported with an affidavit under the Indian Succession Act praying therein that Succession Certificate in respect of the assets/debts of Shri Ishwar Chand died on 1-1-1995 may be issued in his favour.

Hence this proclamation is hereby issued to the general public and kith and kins of the deceased to file their objection if any, before this court on or before 24-11-1995 at 10 A.M. either personally or through authorised agent, failing which Succession Certificate, as sought to be issued shall be granted *ex parte* in favour of the petitioners.

Given under my hand and the seal of this court today the 15th day of September, 1995.

A. C. THALWAL,
Senior Sub-Judge,
Hamirpur, District Hamirpur,
Himachal Pradesh.

Seal.

व अदालत श्री नेत्र सिंह भारद्वाज, नाथव तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील पालमपुर, जिला कांगड़ा, हि० प्र०

केम नं०	तारीख दायरा	तारीख पेशी
112/95	8-9-95	9-11-95

बिमला देवी बनाम आम जनता

प्रार्थना-पत्र अश्वीन धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्रीमती बिमला देवी पत्नी श्री बृहा राम, वासी धुमर, तहसील पालमपुर, जिला कांगड़ा, हि० प्र० ने इस कार्यालय में प्रार्थना-पत्र दिया है कि दिनांक 26-12-86 को पवन कुमार पुत्र श्री बृहा राम का जन्म उसकी कोख से हुआ है लेकिन पंचायत रिकार्ड धुमर में दर्ज नहीं है।

अतः इस इशतहार राजपत्र हि० प्र० द्वारा आम जनता को सूचित किया जाता है कि अगर इस बारे किमी व्यक्ति को कोई उजर या एतराज हो तो वह अपना उजर या एतराज इस अदालत में दिनांक 9-11-95 को प्रातः 10 बजे अमालतन या वकालतन हाजिर आकर पेश कर सकता है। बाद गुजरने मियाद कोई उजर काबिले समायत न होगा और सम्बन्धित पंचायत धुमर को उपरोक्त पवन कुमार को जन्म तारीख पंजीकरण के आदेश दे दिए जाएंगे।

आज दिनांक 8-9-1995 को मेरे हस्ताक्षर व मोहर अदालत में जारी हुआ।

मोहर।

नेत्र सिंह भारद्वाज,
कार्यकारी दण्डाधिकारी,
पालमपुर, जिला कांगड़ा, (हि० प्र०)।

व अदालत श्री नेत्र सिंह भारद्वाज, नाथव तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील पालमपुर, जिला कांगड़ा, हि० प्र०

केम नं०	तारीख दायरा	तारीख पेशी
113/95	12-9-95	9-11-95

गीता देवी

बनाम

आम जनता

श्रीमती रोता देवी पत्नी प्रकाश चन्द, वासी अगोजर, डा० अंदरेटा, तहसील पालमपुर, जिला कांगड़ा, हि० प्र० ने इस कार्यालय में प्रार्थना-पत्र दिया है कि दिनांक 11-9-1991 को गुप्ता देवी पुत्री श्री प्रकाश चन्द का जन्म उसकी कोख से हुआ है लेकिन पंचायत रिकार्ड अगोजर में दर्ज नहीं है।

अतः इस इशतहार राजपत्र हि० प्र० द्वारा आम जनता को सूचित किया जाता है कि अगर इस बारे किमी व्यक्ति को कोई उजर या एतराज हो तो वह अपना उजर या एतराज इस अदालत में दिनांक 9-11-95 को सुबह 10 बजे अमालतन या वकालतन हाजिर आकर पेश कर सकता है। बाद गुजरने मियाद कोई उजर काबिले समायत न होगा और सम्बन्धित पंचायत अगोजर को उपरोक्त गुप्ता देवी पुत्री श्री प्रकाश चन्द की जन्म तिथि पंजीकरण के आदेश दे दिए जाएंगे।

आज दिनांक 12-9-1995 को मेरे हस्ताक्षर व मोहर अदालत में जारी हुआ।

मोहर।

नेत्र सिंह भारद्वाज,
कार्यकारी दण्डाधिकारी,
पालमपुर, जिला कांगड़ा, हि० प्र०।

व अदालत श्री नेत्र सिंह भारद्वाज, नाथव तहसीलदार एवं कार्यकारी दण्डाधिकारी, पालमपुर, जिला कांगड़ा, हि० प्र०

केम नं०	तारीख दायरा	तारीख पेशी
114/95	8-9-95	9-11-95

उजागर सिंह

बनाम

आम जनता

प्रार्थना-पत्र अश्वीन धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री उजागर सिंह पुत्र श्री मथुरा सिंह, वासी नौण, मौजा धुरल, तहसील पालमपुर, जिला कांगड़ा, हि० प्र० ने इस कार्यालय में प्रार्थना-पत्र दिया है कि दिनांक 14-8-1990 को समता कुमारी का जन्म उसकी पत्नी श्रीमती विदिता देवी की कोख से हुआ है लेकिन पंचायत रिकार्ड धुरल में दर्ज नहीं है।

अतः इस इशतहार राजपत्र हि० प्र० द्वारा आम जनता को सूचित किया जाता है कि यदि इस बारे किसी व्यक्ति को कोई उजर या एतराज हो तो वह अपना उजर या एतराज इस अदालत में दिनांक 9-11-95 को सुबह 10 बजे अमालतन या वकालतन हाजिर आकर पेश कर सकता है। बाद गुजरने मियाद कोई उजर काबिले समायत न होगा। और सम्बन्धित आम पंचायत धुरल को उपरोक्त समता कुमारी पुत्री श्री उजागर सिंह की जन्म तिथि पंजीकरण के आदेश दे दिए जाएंगे।

आज दिनांक 12-9-1995 को मेरे हस्ताक्षर व मोहर अदालत में जारी हुआ।

मोहर।

नेत्र सिंह भारद्वाज,
कार्यकारी दण्डाधिकारी,
पालमपुर, जिला कांगड़ा हि० प्र०।

व अदालत भुवनेश्वरी बोहरा, तहसीलदार एवं कार्यकारी दण्डाधिकारी, तहसील धर्मशाला, जिला कांगड़ा, हिमाचल प्रदेश

बिरेन्द्र कुमार

बनाम

आम जनता व अन्य

विषय.—प्रार्थना-पत्र अश्वीन धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

नोटिस बनाम आम जनता :

श्री बिरेन्द्र कुमार मधुब श्री गंगन लाल, निवासी दांडी, मौजा धर्मशाला, तहसील धर्मशाला, जिला कांगड़ा ने इस अदालत में शाय

पत्र सहित मुकदमा दायर किया है कि उसको पुर्वी आरजू शर्मा की जन्म तिथि 19-4-1991 है। परन्तु ग्राम पंचायत दाढ़ी में उक्त तारीख पंजीकृत न हुई है। अतः इसे पंजीकृत किये जाने के आदेश दिये जायें। इस नोटिस के द्वारा समस्त जनता को तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उपरोक्त बच्चे की जन्म/पंजीकरण किये जाने वाले कोई एतराज हो तो वह हमारी अदालत में दिनांक 30-10-95 को अमानतन या वकालतन हाजिर होकर अपना उजर पेश कर सकता है अन्यथा मुताबिक शपथ-पत्र जन्म/मृत्यु तिथि पंजीकृत किये जाने वाले आदेश पारित कर दिये जायेंगे।

हुआ।

मोहर।

भुवनेश्वरी बाहुरा,
कार्यकारी दण्डाधिकारी,
धर्मशाला, जिला कांगड़ा।

व अदालत भुवनेश्वरी बाहुरा, तहसीलदार एवं कार्यकारी दण्डाधिकारी,
तहसील धर्मशाला, जिला कांगड़ा हिमाचल प्रदेश

आज दिनांक 20-9-95 को मेरे हस्ताक्षर व मोहर अदालत से जारी किया गया।

मोहर।

भुवनेश्वरी बाहुरा,
कार्यकारी दण्डाधिकारी,
धर्मशाला, जिला कांगड़ा।

व अदालत भुवनेश्वरी बाहुरा, तहसीलदार एवं कार्यकारी दण्डाधिकारी
तहसील धर्मशाला, जिला कांगड़ा, हिमाचल प्रदेश

शत्रुजीत बनाम ग्राम जनता व अन्य
विषय.—प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण
अधिनियम, 1969.

नोटिस बनाम ग्राम जनता।

श्री शत्रुजीत सुपुत्र श्री चुनो लाल, निवासी चड़ी, मोजा चड़ी, तहसील धर्मशाला, जिला कांगड़ा ने इस अदालत में शपथ-पत्र सहित मुकदमा दायर किया है कि उसके पुत्र दिनावर सिंह को जन्म तिथि 26-11-1990 है परन्तु ग्राम पंचायत चड़ी में उक्त तारीख पंजीकृत न हुई है। अतः इसे पंजीकृत किये जाने के आदेश दिये जायें। इस नोटिस के द्वारा समस्त जनता को तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उपरोक्त बच्चे के जन्म पंजीकरण किये जाने वाले कोई एतराज हो तो वह हमारी अदालत में दिनांक 30-10-95 को अमानतन या वकालतन हाजिर होकर उजर पेश कर सकता है अन्यथा मुताबिक शपथ-पत्र जन्म तिथि पंजीकृत किये जाने वाले आदेश पारित कर दिये जायेंगे।

आज दिनांक 20-9-95 को मेरे हस्ताक्षर व मोहर अदालत से जारी किया गया।

मोहर।

भुवनेश्वरी बाहुरा,
कार्यकारी दण्डाधिकारी,
धर्मशाला, जिला कांगड़ा।

व अदालत भुवनेश्वरी बाहुरा, तहसीलदार एवं कार्यकारी दण्डाधिकारी,
तहसील धर्मशाला, जिला कांगड़ा, हिमाचल प्रदेश

रूप सिंह बनाम ग्राम जनता व अन्य
विषय.—प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण
अधिनियम, 1969

नोटिस बनाम ग्राम जनता।

श्री रूप सिंह सुपुत्र श्री राम बहादुर, निवासी हीरू, डाकखाना मल्लोट, मंग मोजा धर्मशाला, तहसील धर्मशाला, जिला कांगड़ा ने इस अदालत में शपथ-पत्र सहित मुकदमा दायर किया है कि उसके पुत्र लाल बहादुर की जन्म तिथि 4-6-1993 है परन्तु एम0 सी0 धर्मशाला में उक्त तारीख पंजीकृत न हुई है। अतः इसे पंजीकृत किये जाने के आदेश दिये जायें। इस नोटिस के द्वारा समस्त जनता को तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उपरोक्त बच्चे के जन्म पंजीकरण किये जाने वाले कोई एतराज हो तो वह हमारी अदालत में दिनांक 30-10-95 को अमानतन या वकालतन हाजिर होकर उजर पेश कर सकता है अन्यथा मुताबिक शपथ-पत्र/मृत्यु तिथि पंजीकृत किये जाने वाले आदेश पारित कर दिये जायेंगे।

आज दिनांक 20-9-95 को मेरे हस्ताक्षर व मोहर अदालत से जारी

रूप सिंह

बनाम

ग्राम जनता व अन्य

विषय.—प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण
अधिनियम, 1969.

नोटिस बनाम ग्राम जनता।

श्री रूप सिंह सुपुत्र श्री राम बहादुर, निवासी हीरू, डाकखाना मल्लोटगंज, मोजा धर्मशाला, तहसील धर्मशाला, जिला कांगड़ा ने इस अदालत में शपथ-पत्र सहित मुकदमा दायर किया है कि उसके पुत्र लाल बहादुर की जन्म तिथि 3-8-1991 है परन्तु एम0 सी0 धर्मशाला में उक्त तारीख पंजीकृत न हुई है। अतः इसे पंजीकृत किये जाने के आदेश दिये जायें। इस नोटिस के द्वारा समस्त जनता को तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को उपरोक्त बच्चे के जन्म पंजीकरण किये जाने वाले कोई एतराज हो तो वह हमारी अदालत में दिनांक 30-10-95 को अमानतन या वकालतन हाजिर होकर उजर पेश कर सकता है अन्यथा मुताबिक शपथ-पत्र जन्म तिथि पंजीकृत किये जाने वाले आदेश पारित कर दिये जायेंगे।

आज दिनांक 20-9-95 को मेरे हस्ताक्षर और मोहर अदालत से जारी किया गया।

मोहर।

भुवनेश्वरी बाहुरा,
कार्यकारी दण्डाधिकारी,
धर्मशाला, जिला कांगड़ा।

व अदालत कार्यकारी दण्डाधिकारी, देहरा, तहसील देहरा,
जिला कांगड़ा (हि0 प्र0)

व मुकदमा :

प्रकाश चन्द

बनाम

ग्राम जनता

दरखास्त जेर धारा 13(3) जन्म व मृत्यु पंजीकरण अधिनियम,
1969.

नोटिस बनाम जनता :

श्री प्रकाश चन्द ने इस अदालत में दरखास्त दी है कि उसके पुत्र सुनील कुमार का जन्म पंचायतन रजिस्टर में गलती से दर्ज न करवाया गया है। अब दर्ज किया जावे। उसके पुत्र की जन्म तिथि 10-2-85 तथा बच्चे का जन्म गांव मोईन, तहसील देहरा में हुआ है।

अतः इस नोटिस द्वारा समस्त जनता तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को इसका नाम दर्ज करने वाले कोई आपत्ति व एतराज हो तो वह दिनांक 30-11-95 को समय 10 बजे प्रातः स्वयं अथवा किसी वारिष्ठ के माध्यम से हमारे समक्ष हाजिर आकर पेश करे अन्यथा दीर्घ कार्रवाई असल में नाई जाएगी।

आज दिनांक 13-9-1995 को हमारे हस्ताक्षर व मोहर अदालत से जारी किया हुआ।

मोहर।

हस्ताक्षरित/-
कार्यकारी दण्डाधिकारी, देहरा,
तहसील देहरा, जिला कांगड़ा (हि0 प्र0)।

व अदालत कार्यकारी दण्डाधिकारी देहरा, तहसील देहरा,
जिला कांगड़ा, हिमाचल प्रदेश

व मुकदमा :

श्री श्री चन्द पुत्र श्री श्रीराम, वासी मन्थारी, डाकखाना
चनली, तहसील देहरा, जिला कांगड़ा।

बनाम

श्रीम अमता

दस्तावेज जेर धारा 13(3) जन्म तिथि एवं मृत्यु पंजीकरण
अधिनियम, 1969.

नोटिस बनाम अमता :

श्री श्री चन्द ने इस अदालत में दस्तावेज दी है कि उसके
पुत्र रवि कुमार का जन्म पञ्चायत रजिस्टर में मन्थारी में वर्ष न
कन्सा गया है। अब दर्ज किया जावे। बच्चे की जन्मतिथि
18-9-1993 तथा बच्चे का जन्म गांव मन्थारी में हुआ है।

अतः इस नोटिस द्वारा सम्मत अमता तथा सम्बन्धित रिश्तेदारों
को सूचित किया जाता है कि यदि किसी को इसका नाम दर्ज करने
बारे कोई आपत्ति या उजर हो तो वह दिनांक 30-11-95 को
समय 10 बजे प्रातः स्वयं अथवा किसी वारिष्ठ के माध्यम से
हमारे सम्मत अदालत में हाजिर आकर पेश करे। अन्यथा एक
तन्त्र कार्यवाही अमल में लाई जावेगी।

आत दिनांक 13-9-1993 को मेरे हस्ताक्षर व मोहर
अदालत में जारी हुआ।

मोहर।

हस्ताक्षरित-
कार्यकारी दण्डाधिकारी, देहरा
तहसील देहरा जिला कांगड़ा (हि0 प्र0)।

व अदालत कार्यकारी दण्डाधिकारी, देहरा, तहसील देहरा
जिला कांगड़ा, हिमाचल प्रदेश

व मुकदमा :

श्री मंजीत कुमार सुपुत्र स्वर्गीय श्री हरिया, निवासी वासा, डा0
हरीपुर, तहसील देहरा, जिला कांगड़ा, हिमाचल प्रदेश।

जन्म

श्रीम अमता

दस्तावेज जेर धारा 13 (3) जन्म तिथि एवं मृत्यु पंजीकरण
अधिनियम, 1969.

नोटिस बनाम अमता :

श्री मंजीत कुमार ने अदालत में दस्तावेज दी है कि इनके पिता
श्री हरिया सुपुत्र लच्छू की मृत्यु तिथि पञ्चायत रजिस्टर में मन्थारी में
वर्ष नहीं कन्सा गई है। अब दर्ज की जावे। इसके पिता की मृत्यु
दिनांक 3-8-1993 को गांव वासा (डंगा) में हुई है।

अतः इस नोटिस द्वारा सम्मत अमता तथा सम्बन्धित रिश्तेदारों
को सूचित किया जाता है कि यदि किसी को इसका नाम दर्ज करने
बारे कोई आपत्ति या उजर हो तो वह दिनांक 8-11-1995
समय 10 बजे प्रातः स्वयं अथवा किसी वारिष्ठ के माध्यम से हमारे
सम्मत अदालत में हाजिर आकर पेश करे अन्यथा एक तन्त्र
कार्यवाही अमल में लाई जावेगी।

आत दिनांक 12-9-1993 को मेरे हस्ताक्षर व मोहर अदालत
में जारी हुआ।

मोहर।

हस्ताक्षरित-
कार्यकारी दण्डाधिकारी
देहरा, तहसील देहरा, जिला कांगड़ा।

व अदालत कार्यकारी दण्डाधिकारी, देहरा, जिला कांगड़ा

व मुकदमा :

श्रीम कुमार

बनाम

श्रीम अमता

दस्तावेज जेर धारा 13 (3) जन्म तिथि एवं मृत्यु पंजीकरण
अधिनियम, 1969.

नोटिस बनाम अमता :

श्री जीत कुमार ने इस अदालत में दस्तावेज दी है कि इसके
पुत्र विनय कुमार का जन्म पञ्चायत रजिस्टर में मन्थारी में
वर्ष ना कन्साया गया है। अब दर्ज किया जावे। इसके पुत्र की
जन्म तिथि 22-11-1988 है तथा बच्चे का जन्म गांव कड़ोआ,
तहसील देहरा में हुआ है।

अतः इस नोटिस द्वारा सम्मत अमता तथा सम्बन्धित रिश्तेदारों
को सूचित किया जाता है कि यदि किसी को इसका नाम दर्ज
करने बारे कोई आपत्ति या उजर हो तो वह दिनांक 8-11-1995
समय 10 बजे प्रातः स्वयं अथवा किसी वारिष्ठ के माध्यम से हमारे
सम्मत अदालत में हाजिर आकर पेश करे अन्यथा एक तन्त्र
कार्यवाही अमल में लाई जावेगी।

आत दिनांक 13-9-1993 को मेरे हस्ताक्षर व मोहर अदालत
में जारी हुआ।

मोहर।

हस्ताक्षरित/-
कार्यकारी दण्डाधिकारी,
देहरा, तहसील देहरा, जिला कांगड़ा।

व अदालत श्री हरि सिंह भाटा, माधव-तहसीलदार एवं कार्यकारी
दण्डाधिकारी, तहसील धर्मशाला, जिला कांगड़ा, हिमाचल प्रदेश

Lobsang Tenzin

बनाम

श्रीम अमता व अन्य

विषय.—प्राथम्य-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण
अधिनियम, 1969.

नोटिस बनाम श्रीम अमता :

श्री Lobsang Tenzin सुपुत्र श्री Gualtsen, निवासी
मन्थारी, मोवा धर्मशाला, जिला कांगड़ा ने इस अदालत में आप-पत्र
सहित मुकदमा दायर किया है कि उसके पुत्र Lobsang Dhoondup
की जन्म तिथि 1-5-1970 है परन्तु एम0 सी0
धर्मशाला में उक्त तारीख पंजीकृत न हुई है अतः इसे पंजीकृत
किये जाने के आदेश दिये जावे। इस नोटिस के द्वारा सम्मत अमता को
तथा सम्बन्धित रिश्तेदारों को सूचित किया जाता है कि यदि किसी को
उपरोक्त बच्चे के जन्म पंजीकरण जिसे जाने बारे कोई आपत्ति
हो तबारा अदालत में दिनांक 28-10-1993 को अमानत या
व तबारा हाजिर होकर उजर पेश कर सकता है अन्यथा मुताबिक अन्य-
पत्र जन्म तिथि पंजीकृत किये जाने बारे आदेश पारित कर दिये
जायेंगे।

आत दिनांक 12-9-1993 को मेरे हस्ताक्षर व मोहर अदालत
में जारी किया गया।

मोहर।

हरि सिंह भाटा,
कार्यकारी दण्डाधिकारी धर्मशाला,
जिला कांगड़ा, हिमाचल प्रदेश।

व अदालत श्री हरि सिंह भाटा, नयन-तहसीलदार एवं कार्यकारी
दण्डाधिकारी, तहसील धर्मशाला, जिला कांगड़ा (हि० प्र०)

व अदालत श्री अमर नाथ ठाकुर, नायक तहसीलदार एवं कार्यकारी
दण्डाधिकारी, तहसील नूरपुर, जिला कांगड़ा, हिमाचल प्रदेश

Tenzin Dawa

मुकुन्दमा नं० :

वनाम

नरला देवी

ग्राम जनता व अन्य

वनाम

ग्राम जनता

विषय.—प्रार्थना पत्र जेर घाना 13(3) जन्म एवं मृत्यु पंजीकरण
अधिनियम, 1969.

विषय.—प्रार्थना पत्र जेर घाना 13(3) जन्म एवं मृत्यु पंजीकरण
अधिनियम, 1969.

नोटिस वनाम ग्राम जनता :

नोटिस वनाम ग्राम जनता :

श्री Tenzin Dawa पुत्र श्री Lobsang Tenzin
निवासी मकलौडांग मौजा धर्मशाला, तहसील धर्मशाला, जिला
कांगड़ा ने इस अदालत में शपथ पत्र सहित मुकुन्दमा नाम का
है कि उसकी जन्म तिथि 20-6-1974 है परन्तु एम० सी० धर्मशाला
में उक्त नाबीक पंजीकृत न हुई है। अतः इसे पंजीकृत किये जाने के
आदेश दिये जायें। इस नोटिस के द्वारा सम्बन्धित जनता को तथा
सम्बन्धित रिजिस्ट्रारों को सूचित किया जाता है कि यदि किसी को
उपरोक्त के जन्म पंजीकरण किये जाने वाले कोई एतराज हो तो
हमारी अदालत में दिनांक 28-10-1995 को अमानत या वास्तव
हाजिर होकर उतर पेश कर सकता है अन्यथा मृत्यु पत्र शपथ-पत्र
जन्म तिथि पंजीकृत किये जाने वाले आदेश पारित कर दिये जायेंगे।

अतः दिनांक 12-9-1995 को मेरे हस्ताक्षर व मोहर अदालत
द्वारा जारी किया गया।

कुल नरला देवी पुत्री स्वर्गीय काका राम, निवासी बाई नं० 8, ग्राम
नूरपुर, तहसील नूरपुर, जिला कांगड़ा ने इस अदालत में शपथ पत्र
सहित मुकुन्दमा नाम का देहान्त 14-10-1997 को हुआ था जिन
का इलाज नगरपालिका नूरपुर के कार्यालय में ना हुआ है।
अतः इसे पंजीकृत किये जाने के आदेश दिए जायें। इस नोटिस
द्वारा सम्बन्धित जनता को तथा सम्बन्धित रिजिस्ट्रारों को सूचित किया
जाता है कि यदि किसी को उपरोक्त काको देवी को मृत्यु पंजीकरण
किये जाने वाले कोई एतराज हो तो वह हमारी अदालत में
दिनांक 28-10-1995 को अमानत या वास्तव हाजिर होकर
एतराज पेश कर सकता है अन्यथा मृत्यु पत्र शपथ-पत्र मृत्यु तिथि
पंजीकृत किये जाने वाले आदेश पारित कर दिए जायेंगे।

अतः दिनांक 20-9-1995 को हमारे हस्ताक्षर व मोहर
अदालत में जारी किया।

मोहर। हरि सिंह भाटा,
कार्यकारी दण्डाधिकारी, धर्मशाला,
जिला कांगड़ा, हिमाचल प्रदेश।

मोहर। अमर नाथ ठाकुर,
कार्यकारी दण्डाधिकारी,
नूरपुर, जिला कांगड़ा (हि० प्र०)।

व अदालत श्री हरि सिंह भाटा, नायक-तहसीलदार एवं कार्यकारी
दण्डाधिकारी, तहसील धर्मशाला, जिला कांगड़ा (हि० प्र०)

Genpe Wangchuk

वनाम

ग्राम जनता व अन्य

विषय.—प्रार्थना पत्र जेर घाना 13(3) जन्म एवं मृत्यु पंजीकरण
अधिनियम, 1969.

नोटिस वनाम ग्राम जनता :

श्री Genpe Wangchuk पुत्र श्री Tenzin
निवासी धर्मशाला, मौजा धर्मशाला, तहसील धर्मशाला, जिला कांगड़ा
ने इस अदालत में शपथ-पत्र सहित मुकुन्दमा नाम का है कि उसकी
पुत्री Tenzin Chodon की जन्म तिथि 9-7-1985 है परन्तु
एम० सी० धर्मशाला में उक्त नाबीक पंजीकृत न हुई है। अतः इसे
पंजीकृत किये जाने के आदेश दिये जायें। इस नोटिस के द्वारा सम्बन्धित
जनता को तथा सम्बन्धित रिजिस्ट्रारों को सूचित किया जाता है कि
यदि किसी को उपरोक्त के जन्म पंजीकरण किये जाने वाले कोई
एतराज हो तो हमारी अदालत में दिनांक 28-10-1995 को
अमानत या वास्तव हाजिर होकर उतर पेश कर सकता है अन्यथा
मृत्यु पत्र शपथ-पत्र जन्म तिथि पंजीकृत किये जाने वाले आदेश पारित
कर दिये जायेंगे।

अतः दिनांक 2-9-1995 को मेरे हस्ताक्षर व मोहर अदालत
द्वारा जारी किया गया।

मोहर। हरि सिंह भाटा,
कार्यकारी दण्डाधिकारी, धर्मशाला,
जिला कांगड़ा, हिमाचल प्रदेश।

व अदालत श्री ज्योति कुमार नेगी, कार्यकारी दण्डाधिकारी, कुमारसैन,
जिला शिमला, हिमाचल प्रदेश

श्री विरदा राम पुत्र श्री दुनिया, निवासी ग्रामी तहसील कुमारसैन,
जिला शिमला, हिमाचल प्रदेश।

वनाम

ग्राम जनता

उपरोक्त प्रार्थी ने इस अदालत में ग्राम प्रार्थना-पत्र इस आशय
में अवर निजा है कि ग्राम प्रार्थना मकौडी के रिनाई में प्रार्थी
का नाम हिरदा राम उर्ज है जबकि राजेश रिनाई में प्रार्थी का
नाम जय है जो कि सत्य उर्ज है, जिसे दखल किया जाना
चाहिये है।

अतः इस इन्हन द्वारा ग्राम जनता तथा सम्बन्धित रिजिस्ट्रारों
को सूचित किया जाता कि किसी समय को प्रार्थी के नाम जय के
स्थान पर हिरदा राम उर्ज करने में कोई आपत्ति या एतराज हो
तो वह स्वयं आपका किसी वास्तविक कारण से दिनांक 28-10-1995
में पूर्व अमानत उतर घोषणापत्री की अदालत में पेश कर सकता
है। बाद अवरने मित्र कार्यवाही प्रकटकर ग्राम में जाई जायेगी।

अतः दिनांक 15-9-1995 को हमारे हस्ताक्षर व मोहर अदालत में
जारी हुआ।

मोहर। ज्योति कुमार नेगी,
कार्यकारी दण्डाधिकारी,
कुमारसैन, जिला शिमला (हि० प्र०)।

य प्रकाशना श्री प्रताप सिंह गुलेरिया, कार्यकारी मैजिस्ट्रेट, हरोली,
जिला ऊना, हिमाचल प्रदेश

श्री रघुपाल सिंह गुला श्री राम प्रकाश, वामी वालीवाल।

बनाम

आम जनता

दस्तावेज नंबर 13 (3) जन्म एवं मृत्यु एक्ट, प्रतिनियम
रजिस्ट्रेशन, 1969.

श्री रघुपाल सिंह गुला श्री राम प्रकाश, वामी वाली वाल, उप-
तहसील हरोली ने इस कार्यालय में गुंजारण का है कि उसकी
पुत्री प्रीति का जन्म दिनांक 16-4-1990 को हुआ है लेकिन उनकी
जन्म तिथि पंजाब रिकार्ड में दर्ज नहीं है।

अतः सर्वसाधारण को इस पर इस प्रकार द्वारा सूचना दिया जाता
है कि इस बारे में किसी व्यक्ति को कोई उजरत या एतराज न हो तो
दिनांक 20-10-1995 को सबह 10 बजे अध्यादेशकारी को
न्यायालय में हाजिर हो कर पेश कर सका है वरना उपरोक्त
व्यक्ति को जन्म तिथि दर्ज करने वाले सम्बन्धित पञ्चायत का
उत्तरदायी पताई गई तिथि दर्ज करने वाले आदेश दे दिए जाएंगे।

आज दिनांक 19-9-1995 को मेरे दस्तावेज एवं मोह
कार्यालय से जारी है।

मोहर।

प्रताप सिंह गुलेरिया,
कार्यकारी मैजिस्ट्रेट,
हरोली, जिला ऊना (हि० प्र०)।

भाग 6 भारतीय राजपत्र इत्यादि में स पुनः प्रकाशन

—अन्त्य—

भाग 7—आम जनता नवीचन आयोग (Election Commission of India) की वेबसाइट अधिसूचनाएं तथा अन्य
नवीचन सम्बन्धी प्रकाशनाएँ

—अन्त्य—

प्रनपरक

—अन्त्य—

भाग 1

सिचार्ड एवं जन स्वस्थ विभाग

अधिसूचना

शिमला-2, 26 सितम्बर, 1995

संख्या सिचार्ड 11-57/94-सोलन. अतः हिमाचल प्रदेश के राज्यपाल
को यह प्रतीत होता है कि हिमाचल प्रदेश सरकार को सरकारी
भूमि पर सार्वजनिक प्रयोजन के लिए नामतः गांव जंगल कोट काही,
उप-तहसील रामगढ़, तहसील नागागढ़, जिला सोलन में उठाऊ
पेशजल योजना कानूनी-बायला के निर्माण के लिए भूमि ली जानी
अपेक्षित है, अतएव एतद्वारा यह घोषित किया जाता है कि
निम्नलिखित विस्तृत विवरण में वर्णित भूमि उपर्युक्त प्रयोजन के
लिए अपेक्षित है।

2. भूमि अधिनियम, 1894 का धारा 6 के उपबन्धों के
अधीन तथा सम्बन्धित व्यक्तियों की सूचना के लिए घोषणा की जाती
है तथा उक्त अधिनियम की धारा 7 के उपबन्धों के अधीन समाहर्ता,
भू-प्रजन, हिमाचल प्रदेश लोक निर्माण विभाग, सोलन को उक्त
भूमि के प्रजन के लिए आदेश लेने का एतद्वारा निदेश दिया जाता है।

3. भूमि का रेखांक, समाहर्ता, भू-प्रजन, लोक निर्माण विभाग,
सोलन, हिमाचल प्रदेश के कार्यालय में निरोक्षण किया जा सकता है।

विस्तृत विवरणों

जि० : सोलन

उप-तहसील : रामगढ़

गांव	खसरा नं०	क्षेत्र	वोडा	विस्वा
जंगल कोट काही	20/1	0	3	
	21/1	0	2	
	17	0	5	
	18	0	5	
	19	0	2	
कुल	5	0	17	

आदेश द्वारा,
सी० पी० मुजाया,
विस्तारुक्त एवं सचिव।